

**REORGANIZATION PLAN NO. 3 OF 1979**  
**(Consolidate Trade Functions of the U.S. Government)**

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**HEARINGS**  
**BEFORE A**  
**SUBCOMMITTEE OF THE**  
**COMMITTEE ON**  
**GOVERNMENT OPERATIONS**  
**HOUSE OF REPRESENTATIVES**  
**NINETY-SIXTH CONGRESS**  
**FIRST SESSION**

—————  
**OCTOBER 16 AND 18, 1979**  
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**REORGANIZATION PLAN NO. 3 OF 1979**  
**(Consolidate Trade Functions of the U.S. Government)**

**TUESDAY, OCTOBER 16, 1979**

**HOUSE OF REPRESENTATIVES,  
LEGISLATION AND NATIONAL SECURITY SUBCOMMITTEE  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
Washington, D.C.**

The subcommittee met, pursuant to notice, at 9:38 a.m., in room 2154, Rayburn House Office Building, Hon. Jack Brooks (chairman of the subcommittee) presiding.

Present: Representatives Jack Brooks, Dante B. Fascell, Elliott H. Levitas, Frank Horton, and Arlan Stangeland.

Also present: Representative Paul N. McCloskey, Jr.

Staff present: Eugene F. Peters, staff director; Cynthia Meadow, professional staff member; Wilson Abney, professional staff member; Don Stephens, professional staff member; Elmer W. Henderson, senior counsel; Linda Shelton, clerical supervisor; E. Jean Grace, clerk; John M. Duncan, minority staff director; and James L. George, minority professional staff, Committee on Government Operations.

**OPENING STATEMENT OF CHAIRMAN BROOKS**

Mr. Brooks. The subcommittee will come to order.

This morning the subcommittee will consider Reorganization Plan No. 3 of 1979 and House Resolution 428, a resolution of disapproval which I introduced in accordance with requirements of the Reorganization Act of 1977. This does not indicate my personal disapproval of the reorganization plan; rather, it is an action required to insure that the Congress will have a full opportunity to vote on any reorganization plan affecting the executive branch.

Without objection, the reorganization plan and House resolution will be included in the record at this point.

[The material follows:]

REORGANIZATION PLAN NO. 3 OF 1979

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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REORGANIZATION PLAN TO CONSOLIDATE TRADE FUNCTIONS OF THE UNITED STATES GOVERNMENT, PURSUANT TO  
5 U.S.C. 903



SEPTEMBER 25, 1979.—Message and accompanying papers referred to the  
Committee on Government Operations and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

89-011 O

WASHINGTON : 1979

*To the Congress of the United States:*

I transmit herewith Reorganization Plan No. 3 of 1979, to consolidate trade functions of the United States Government. I am acting under the authority vested in me by the Reorganization Act of 1977, chapter 9 of title 5 of the United States Code, and pursuant to section 1109 of the Trade Agreements Act of 1979, which directs that I transmit to the Congress a proposal to restructure the international trade functions of the Executive branch.

The goal of this reorganization is to improve the capacity of the Government to strengthen the export performance of United States industry and to assure fair international trade practices, taking into account the interests of all elements of our economy.

Recent developments, which have raised concern about the vitality of our international trade performance, have focused much attention on the way our trade machinery is organized. These developments include our negative trade balance, increasing dependence upon foreign oil, and international pressures on the dollar. New challenges, such as implementation of the Multilateral Trade Negotiation (MTN) agreements and trade with non-market economies, will further test our Government trade organization.

We must be prepared to apply domestically the MTN codes on procurement, subsidies, standards, and customs valuation. We also must monitor major implementation measures abroad, reporting back to American business on important developments and, where necessary, raising questions internationally about foreign implementation. MTN will work—will open new markets for U.S. labor, farmers, and business—only if we have adequate procedures for aggressively monitoring and enforcing it. We intend to meet our obligations, and we expect others to do the same.

The trade machinery we now have cannot do this job effectively. Although the Special Trade Representative (STR) takes the lead role in administering the trade agreements program, many issues are handled elsewhere and no agency has across-the-board leadership in trade. Aside from the Trade Representative and the Export-Import Bank, trade is not the primary concern of any Executive branch agency where trade functions are located. The current arrangements lack a central authority capable of planning a coherent trade strategy and assuring its vigorous implementation.

This reorganization is designed to correct such deficiencies and to prepare us for strong enforcement of the MTN codes. It aims to improve our export promotion activities so that United States exporters can take full advantage of trade opportunities in foreign markets. It provides for the timely and efficient administration of our unfair trade laws. It also establishes an efficient mechanism for shaping an effective, comprehensive United States trade policy.

To achieve these objectives, I propose to place policy coordination and negotiation—those international trade functions that most require

comprehensiveness, influence, and Government-wide perspective—in the Executive Office of the President. I propose to place operational and implementation responsibilities, which are staff-intensive, in line departments that have the requisite resources and knowledge of the major sectors of our economy to handle them. I have concluded that building our trade structure on STR and Commerce, respectively, best satisfies these considerations.

I propose to enhance STR, to be renamed the Office of the United States Trade Representative, by centralizing in it international trade policy development, coordination and negotiation functions. The Commerce Department will become the focus of non-agricultural operational trade responsibilities by adding to its existing duties those for commercial representation abroad, antidumping and countervailing duty cases, the non-agricultural aspects of MTN implementation, national security investigations, and embargoes.

#### THE UNITED STATES TRADE REPRESENTATIVE

The Trade Representative, with the advice of the Trade Policy Committee, will be responsible for developing and coordinating our international trade and direct investment policy, including the following areas:

*Import remedies.*—The Trade Representative will exercise policy oversight of the application of import remedies, analyze long-term trends in import remedy cases and recommend any necessary legislative changes. For antidumping and countervailing duty matters, such coordination, to the extent legally permissible, will be directed toward the establishment of new precedents, negotiation of assurances, and coordination with other trade matters, rather than case-by-case fact finding and determinations.

*East-West trade policy.*—The Trade Representative will have lead responsibility for East-West trade negotiations and will coordinate East-West trade policy. The Trade Policy Committee will assume the responsibilities of the East-West Foreign Trade Board.

*International investment policy.*—The Trade Representative will have the policy lead regarding issues of direct foreign investment in the United States, direct investment by Americans abroad, operations of multinational enterprises, and multilateral agreements on international investment, insofar as such issues relate to international trade.

*International commodity policy.*—The Trade Representative will assume responsibility for commodity negotiations and also will coordinate commodity policy.

*Energy trade.*—While the Departments of Energy and State will continue to share responsibility for international energy issues, the Trade Representative will coordinate energy trade matters. The Department of Energy will become a member of the TPC.

*Export-expansion policy.*—To ensure a vigorous and coordinated Government-wide export expansion effort, policy oversight of our export expansion activities will be the responsibility of the Trade Representative.

The Trade Representative will have the lead role in bilateral and multilateral trade, commodity, and direct investment negotiations. The Trade Representative will represent the United States in General

Agreement on Tariffs and Trade (GATT) matters. Since the GATT will be the principal international forum for implementing and interpreting the MTN agreements and since GATT meetings, including committee and working group meetings, occur almost continuously, the Trade Representative will have a limited number of permanent staff in Geneva. In some cases, it may be necessary to assign a small number of USTR staff abroad to assist in oversight of MTN enforcement. In this event, appropriate positions will be authorized. In recognition of the responsibility of the Secretary of State regarding our foreign policy, the activities of overseas personnel of the Trade Representative and the Commerce Department will be fully coordinated with other elements of our diplomatic missions.

In addition to his role with regard to GATT matters, the Trade Representative will have the lead responsibility for trade and commodity matters considered in the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD) when such matters are the primary issues under negotiation. Because of the Secretary of State's foreign policy responsibilities, and the responsibilities of the Director of the International Development Cooperation Agency as the President's principal advisor on development, the Trade Representative will exercise his OECD and UNCTAD responsibilities in close cooperation with these officials.

To ensure that all trade negotiations are handled consistently and that our negotiating leverage is employed to the maximum, the Trade Representative will manage the negotiation of particular issues. Where appropriate, the Trade Representative may delegate responsibility for negotiations to other agencies with expertise on the issues under consideration. He will coordinate the operational aspects of negotiations through a Trade Negotiating Committee, chaired by the Trade Representative and including the Departments of Commerce, State, Treasury, Agriculture and Labor.

The Trade Representative will be concerned not only with ongoing negotiations and coordination of specific, immediate issues, but also—very importantly—with the development of long-term United States trade strategies and policies. He will oversee implementation of the MTN agreements, and will advise the President on the effects of other Government policies (e.g., antitrust, taxation) on U.S. trade. In order to participate more fully in oversight of international investment and export financing activities, the Trade Representative will become a member of the National Advisory Council on International Monetary and Financial Policies and the Boards of the Export-Import Bank and the Overseas Private Investment Corporation.

In performing these functions, the Trade Representative will act as the principal trade spokesman of the President. To assure that our trade policies take into account the broadest range of perspectives, the Trade Representative will consult with the Trade Policy Committee, whose mandate and membership will be expanded. The Trade Representative will, as appropriate, invite agencies such as the Export-Import Bank and the Overseas Private Investment Corporation to participate in TPC meetings in addition to the permanent TPC members. When different departmental views on trade matters exist within the TPC as will be the case from time to time in this complex policy

area, I will expect the Trade Representative to resolve policy disagreements in his best judgment, subject to appeal to the President.

#### THE DEPARTMENT OF COMMERCE

The Department of Commerce, under this proposal, will become the focal point of operational responsibilities in the non-agricultural trade area. My reorganization plan will transfer to the Commerce Department important responsibilities for administration of countervailing and antidumping matters, foreign commercial representation, and MTN implementation support. Consolidating these trade functions in the Department of Commerce builds upon an agency with extensive trade experience. The Department will retain its operational responsibilities in such areas as export controls, East-West trade, trade adjustment assistance to firms and communities, trade policy analysis, and monitoring foreign compliance with trade agreements. The Department will be substantially reorganized to consolidate and reshape its trade functions under an Under Secretary for International Trade.

With this reorganization, trade functions will be strengthened within the Department of Commerce, and such related efforts in the Department as improvement of industrial innovation and productivity, encouraging local and regional economic development, and sectoral analysis, will be closely linked to an aggressive trade program. Fostering the international competitiveness of American industry will become the principal mission of the Department of Commerce.

#### *Import remedies*

I propose to transfer to the Department of Commerce responsibility for administration of the countervailing duty and antidumping statutes. This function will be performed efficiently and effectively in an organizational setting where trade is the primary mission. This activity will be directed by a new Assistant Secretary for Trade Administration, subject to Senate confirmation. Although the plan permits its provisions to take effect as late as October 1, 1980, I intend to make this transfer effective by January 1, 1980, so that it will occur as the new MTN codes take effect. Commerce will continue its supportive role in the staffing of other unfair trade practice issues, such as cases arising under section 301 of the Trade Act of 1974.

#### *Commercial representation*

This reorganization plan will transfer to the Department of Commerce responsibility for commercial representation abroad. This transfer would place both domestic and overseas export promotion activities under a single organization, directed by an Assistant Secretary for Export Development, charged with aggressively expanding U.S. export opportunities. Placing this Foreign Commercial Service in the Commerce Department will allow commercial officers to concentrate on the promotion of U.S. exports as their principal activity.

Initially, the transfer of commercial representation from State to Commerce will involve all full-time overseas trade promotion and commercial positions (approximately 162), responsibility for this function in the countries (approximately 60) to which these individuals are assigned, and the associated foreign national employees in those countries. Over time, the Department of Commerce undoubtedly

will review the deployment of commercial officers in light of changing trade circumstances and propose extensions or alterations of coverage of the Foreign Commercial Service.

### *MTN implementation*

I am dedicated to the aggressive implementation of the Multilateral Trade Agreements. The United States must seize the opportunities and enforce the obligations created by these agreements. Under this proposal, the Department of Commerce will assign high priority to this task. The Department of Commerce will be responsible for the day-to-day implementation of non-agricultural aspects of the MTN agreements. Management of this function will be a principal assignment of an Assistant Secretary for Trade Policy and Programs. Implementation activities will include:

- monitoring agreements and targeting problems for consultation and negotiation;
- operating a Trade Complaint Center where the private sector can receive advice as to the recourse and remedies available;
- aiding in the settlement of disputes, including staffing of formal complaint cases;
- identifying problem areas for consideration by the Trade Representative and the Trade Policy Committee;
- educational and promotion programs regarding the provisions of the agreements and the processes for dealing with problems that arise;
- providing American business with basic information on foreign laws, regulations and procedures;
- consultations with private sector advisory committees; and
- general analytical support.

These responsibilities will be handled by a unit built around the staff from Commerce that provided essential analytical support to STR throughout the MTN negotiation process. Building implementation of MTN around this core group will assure that the government's institutional memory and expertise on MTN is most effectively devoted to the challenge ahead. When American business needs information or encounters problems in the MTN area, it can turn to the Department of Commerce for knowledgeable assistance.

Matching the increased importance of trade in the Department's mission will be a much strengthened trade organization within the Department. By creating a number of new senior level positions in the Department, we will ensure that trade policy implementation receives the kind of day-to-day top management attention that it both demands and requires.

With its new responsibilities and resources, the Department of Commerce will become a key participant in the formulation of our trade policies. Much of the analysis in support of trade policy formulation will be conducted by the Department of Commerce, which will be close to the operational aspects of the problems that raise policy issues.

To succeed in global competition, we must have a better understanding of the problems and prospects of U.S. industry, particularly in relation to the growing strength of industries abroad. This is the key reason why we will upgrade sectoral analysis capabilities throughout the Department of Commerce, including the creation of a new Bureau

of Industrial Analysis. Commerce, with its ability to link trade to policies affecting industry, is uniquely suited to serve as the principal technical expert within the Government on special industry sector problems requiring international consultation, as well as to provide industry-specific information on how tax, regulatory and other Government policies affect the international competitiveness of the U.S. industries.

Commerce will also expand its traditional trade policy focus on industrial issues to deal with the international trade and investment problems of our growing services sector. Under the proposal, there will be comprehensive service industry representation in our industry advisory process, as well as a continuing effort to bring services under international discipline. I expect the Commerce Department to play a major role in developing new service sector initiatives for consideration within the Government.

After an investigation lasting over a year, I have found that this reorganization is necessary to carry out the policy set forth in section 901(a) of title 5 of the United States Code. As described above, this reorganization will increase significantly our ability to implement the MTN agreements efficiently and effectively and will improve greatly the services of the government with regard to export development. These improvements will be achieved with no increase in personnel or expenditures, except for an annual expense of about \$300,000 for the salaries and clerical support of the three additional senior Commerce Department officials and a non-recurring expense of approximately \$600,000 in connection with the transfers of functions provided in the plan. I find that the reorganization made by this plan makes necessary the provisions for the appointment and pay of a Deputy Secretary, an Under Secretary for International Trade, and two additional Assistant Secretaries of the Department of Commerce, and additional members of the Boards of Directors of the Export-Import Bank and the Overseas Private Investment Corporation.

It is indeed appropriate that this proposal follows so soon after the overwhelming approval by the Congress of the Trade Agreements Act of 1979, for it will sharpen and unify trade policy direction, improve the efficiency of trade law enforcement, and enable us to negotiate abroad from a position of strength. The extensive discussions between Administration officials and the Congress on this plan have been a model of the kind of cooperation that can exist between the two branches. I look forward to our further cooperation in successfully implementing both this reorganization proposal and the MTN agreements.

JIMMY CARTER.

THE WHITE HOUSE, *September 25, 1979.*



## REORGANIZATION PLAN No. 3 of 1979

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, September 25, 1979, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

### REORGANIZATION OF FUNCTIONS RELATING TO INTERNATIONAL TRADE

#### Section 1. *Office of the United States Trade Representative*

(a) The Office of the Special Representative for Trade Negotiations is redesignated the Office of the United States Trade Representative.

(b) (1) The Special Representative for Trade Negotiations is redesignated the United States Trade Representative (hereinafter referred to as the "Trade Representative"). The Trade Representative shall have primary responsibility, with the advice of the interagency organization established under section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) (hereinafter referred to as the "Committee"), for developing, and for coordinating the implementation of, United States international trade policy, including commodity matters and, to the extent they are related to international trade policy, direct investment matters. The Trade Representative shall serve as the principal advisor to the President on international trade policy and shall advise the President on the impact of other policies of the United States Government on international trade.

(2) The Trade Representative shall have lead responsibility for the conduct of international trade negotiations, including commodity and direct investment negotiations in which the United States participates.

(3) To the extent necessary to assure the coordination of international trade policy, and consistent with any other law, the Trade Representative, with the advice of the Committee, shall issue policy guidance to departments and agencies on basic issues of policy and interpretation arising in the exercise of the following international trade functions. Such guidance shall determine the policy of the United States with respect to international trade issues arising in the exercise of such functions:

(A) matters concerning the General Agreement on Tariffs and Trade, including implementation of the trade agreements set forth in section 2(c) of the Trade Agreements Act of 1979; United States Government positions on trade and commodity matters dealt with by the Organization for Economic Cooperation and Development, the United Nations Conference on Trade and Development, and other multilateral organizations; and the assertion and protection of the rights of the United States under bilateral and multilateral international trade and commodity agreements;

- (B) expansion of exports from the United States;
- (C) policy research on international trade, commodity, and direct investment matters;
- (D) to the extent permitted by law, overall United States policy with regard to unfair trade practices, including enforcement of countervailing duties and antidumping functions under section 303 and title VII of the Tariff Act of 1930;
- (E) bilateral trade and commodity issues, including East-West trade matters; and
- (F) international trade issues involving energy.

(4) All functions of the Trade Representative shall be conducted under the direction of the President.

(c) The Deputy Special Representatives for Trade Negotiations are redesignated Deputy United States Trade Representatives.

### *Section 2. Department of Commerce*

(a) The Secretary of Commerce (hereinafter referred to as the "Secretary") shall have, in addition to any other functions assigned by law, general operational responsibility for major nonagricultural international trade functions of the United States Government, including export development, commercial representation abroad, the administration of the antidumping and countervailing duty laws, export controls, trade adjustment assistance to firms and communities, research and analysis, and monitoring compliance with international trade agreements to which the United States is a party.

(b) (1) There shall be in the Department of Commerce (hereinafter referred to as the "Department") a Deputy Secretary appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall receive compensation at the rate payable for Level II of the Executive Schedule, and shall perform such duties and exercise such powers as the Secretary may from time to time prescribe.

(2) The position of Under Secretary of Commerce established under section 1 of the Act of June 5, 1939 (ch. 180, 53 Stat. 808; 15 U.S.C. 1502) is abolished.

(c) There shall be in the Department an Under Secretary for International Trade appointed by the President, by and with the advice and consent of the Senate. The Under Secretary for International Trade shall receive compensation at the rate payable for Level III of the Executive Schedule, and shall perform such duties and exercise such powers as the Secretary may from time to time prescribe.

(d) There shall be in the Department two additional Assistant Secretaries appointed by the President, by and with the advice and consent of the Senate. Each such Assistant Secretary shall receive compensation at the rate payable for Level IV of the Executive Schedule, and shall perform such duties and exercise such powers as the Secretary may from time to time prescribe.

### *Section 3. Export-Import Bank of the United States*

The Trade Representative and the Secretary shall serve, ex officio and without vote, as additional members of the Board of Directors of the Export-Import Bank of the United States.

#### Section 4. *Overseas Private Investment Corporation*

(a) The Trade representative shall serve, ex officio, as an additional voting member of the Board of Directors of the Overseas Private Investment Corporation. The Trade Representative shall be the Vice Chair of such Board.

(b) There shall be an additional member of the Board of Directors of the Overseas Private Investment Corporation who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and who shall not be an official or employee of the Government of the United States. Such Director shall be appointed for a term of no more than three years.

#### Section 5. *Transfer of Functions*

(a) (1) There are transferred to the Secretary all functions of the Secretary of the Treasury, the General Counsel of the Department of the Treasury, or the Department of the Treasury pursuant to the following:

(A) section 305(b) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(b)), to be exercised in consultation with the Secretary of the Treasury;

(B) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862);

(C) section 303 and title VII (including section 771(1)) of the Tariff Act of 1930 (19 U.S.C. 1303, 1671 *et seq.*), except that the Customs Service of the Department of the Treasury shall accept such deposits, bonds, or other security as deemed appropriate by the Secretary, shall assess and collect such duties as may be directed by the Secretary, and shall furnish such of its important records or copies thereof as may be requested by the Secretary incident to the functions transferred by this subparagraph;

(D) sections 514, 515, and 516 of the Tariff Act of 1930 (19 U.S.C. 1514, 1515, and 1516) insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002 (b) (1) of the Trade Agreements Act of 1979;

(E) with respect to the functions transferred by subparagraph (C) of this paragraph, section 318 of the Tariff Act of 1930 (19 U.S.C. 1318), to be exercised in consultation with the Secretary of the Treasury;

(F) with respect to the functions transferred by subparagraph (C) of this paragraph, section 502(b) of the Tariff Act of 1930 (19 U.S.C. 1502(b)), and, insofar as it provides authority to issue regulations and disseminate information, to be exercised in consultation with the Secretary of the Treasury to the extent that the Secretary of the Treasury has responsibility under subparagraph (C), section 502(a) of such Act (19 U.S.C. 1502(a));

(G) with respect to the functions transferred by subparagraph (C) of this paragraph, section 617 of the Tariff Act of 1930 (19 U.S.C. 1617); and

(H) section 2632(e) of title 28 of the United States Code, insofar as it relates to actions taken by the Secretary reviewable under section 516A of the Tariff Act of 1930 (19 U.S.C. 1516(a)).

(2) The Secretary shall consult with the Trade Representative regularly in exercising the functions transferred by subparagraph (C) of

paragraph (1) of this subsection, and shall consult with the Trade Representative regarding any substantive regulation proposed to be issued to enforce such functions.

(b) (1) There are transferred to the Secretary all trade promotion and commercial functions of the Secretary of State or the Department of State that are—

(A) performed in full-time overseas trade promotion and commercial positions; or

(B) performed in such countries as the President may from time to time prescribe.

(2) To carry out the functions transferred by paragraph (1) of this subsection, the President, to the extent he deems it necessary, may authorize the Secretary to utilize Foreign Service personnel authorities and to exercise the functions vested in the Secretary of State by the Foreign Service Act of 1946 (22 U.S.C. 801 *et seq.*) and by any other laws with respect to personnel performing such functions.

(c) There are transferred to the President all functions of the East-West Foreign Trade Board under section 411(c) of the Trade Act of 1974 (19 U.S.C. 2441(c)).

(d) Appropriations available to the Department of State for Fiscal Year 1980 for representation of the United States concerning matters arising under the General Agreement on Tariffs and Trade and trade and commodity matters dealt with under the auspices of the United Nations Conference on Trade and Development are transferred to the Trade Representative.

(e) There are transferred to the interagency organization established under section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) all functions of the East-West Foreign Trade Board under section 411 (a) and (b) of the Trade Act of 1974 (19 U.S.C. 2441 (a) and (b)).

#### Section 6. *Abolition*

The East-West Foreign Trade Board established under section 411 of the Trade Act of 1974 (19 U.S.C. 2441) is abolished.

#### Section 7. *Responsibility of the Secretary of State*

Nothing in this reorganization plan is intended to derogate from the responsibility of the Secretary of State for advising the President on foreign policy matters, including the foreign policy aspects of international trade and trade-related matters.

#### Section 8. *Incidental transfers; interim officers*

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred to the appropriate agency, organization, or component at such time or times as such Director shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation originally was made. The Director of the Office of Management and Budget shall provide for terminating the affairs of any agency abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of the reorganization plan.

(b) Pending the assumption of office by the initial officers provided for in section 2 of this reorganization plan, the functions of each such office may be performed, for up to a total of 60 days, by such individuals as the President may designate. Any individual so designated shall be compensated at the rate provided herein for such position.

**Section 9. *Effective date***

The provisions of this reorganization plan shall take effect October 1, 1980, or at such earlier time or times as the President shall specify, but not sooner than the earliest time allowable under section 906 of title 5 of the United States Code.

96TH CONGRESS  
1ST SESSION

# H. RES. 428

To disapprove Reorganization Plan Numbered 3 transmitted by the President on  
September 25, 1979.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 1979

Mr. BROOKS (by request) submitted the following resolution; which was referred  
to the Committee on Government Operations

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## RESOLUTION

To disapprove Reorganization Plan Numbered 3 transmitted by  
the President on September 25, 1979.

- 1       *Resolved*, That the House of Representatives does not
- 2 favor the Reorganization Plan Numbered 3 transmitted to
- 3 the Congress by the President on September 25, 1979.

**Mr. BROOKS.** Plan No. 3 carries out a provision of the recently enacted multilateral trade legislation by transferring to the Department of Commerce certain trade functions currently under the jurisdiction of the Department of State and Department of the Treasury. In addition, it increases the duties assigned to the Office of the Special Trade Representative by making the Trade Representative responsible for U.S. trade negotiations, coordinator of U.S. trade policy, and chief adviser to the President on trade matters.

The plan also adds an additional, voting, non-Government affiliated member to the Board of Directors of the Overseas Private Investment Corporation and designates the Trade Representative a voting, ex officio member of that Board as well as its Vice Chairman. Both the Trade Representative and the Secretary of Commerce will sit on the Board of the Export-Import Bank, ex officio and without vote.

I understand the President intends to issue an Executive order to further clarify the duties and responsibilities of the Office of U.S. Trade Representative.

**Mr. Horton,** the gentleman from New York.

**Mr. HORRON.** Thank you, Mr. Chairman.

This trade reorganization proposal now before us could well be the most important plan we will have looked at since the President started sending up these plans in 1977. I say this for two reasons. First, there is no question that the trade functions of our Government must be reorganized into a more rational structure. Approximately one dozen departments and agencies in the Federal Government are currently responsible for some aspect of the formulation and implementation of U.S. foreign trade policy.

Second, equally, or perhaps even more important, is the fact that while foreign trade is vitally important to our economy, it is unfortunately shrinking. Some of the statistics point this out.

In 1968, the United States had a trade surplus of \$1 billion; in 1978, our trade deficit was approximately \$28.5 billion. In 1960, the United States had a 20-percent share of the world export market; in 1978, that share had shrunk to just 14 percent. In 1968, the value of U.S. exports was twice that of Japan and slightly greater than West Germany's. In 1978, Japan's exports exceeded U.S. exports, and Germany exports were almost 25 percent greater than those of the United States. In 1978, U.S. imports of oil alone totaled \$54 billion. By 1990, experts estimate that, in current dollars, the U.S. oil bill will reach approximately \$178 billion, meaning that our trade balance will worsen unless something is done.

Finally, the Congressional Budget Office has estimated that for every billion dollars worth of exports, 40,000 to 50,000 additional American jobs are created.

And I could go on and on. Trade, in short, is very important to this country.

Since there is no question of the need for reorganization from both an organizational and substantive viewpoint, the question is, does this plan before us meet all the desired goals? In some respects, I

think that the answer is "yes." There seems little question that trade is given a higher profile from this proposal. The Office of Special Trade Representative is strengthened with little doubt left that he is the man in charge of trade. He seems to have clear authority for all important trade negotiations, and more important, he is in charge of trade coordination. With the creation of a new Under Secretary of Commerce and two new Assistant Secretaries for Trade Matters, there is no question that trade will also be given a higher profile within the Department of Commerce. These are, in my opinion, positive steps.

On the other hand, there are some problems with the proposal. The main criticism of this plan is that it splits policy from implementation with the former in STR and the latter in the Department of Commerce. Then, from a substantive viewpoint, there is nothing in the plan, per se, that will enhance foreign trade export policy. There is the potential that with a new Assistant Secretary of Commerce for Export Development and the commercial attachés being transferred to Commerce, that export promotion will be enhanced, but this is something that must be carefully monitored.

Therefore, when you add both the "pluses" and "minuses" of the plan before us, I think you have to conclude that it is a positive step, but it is only a first step.

I look forward to hearing from our witnesses this morning and hope that any fears I have will be allayed.

We are fortunate, I think, that the new STR office will be headed by Governor Askew who is preceded by an excellent and outstanding reputation. Unfortunately, we are losing our very competent Secretary of Commerce who I understand has spent quite a lot of time on this proposal. And, of course, I do welcome our friend, OMB Director Jim McIntyre whom we have seen many times on these various proposals.

Mr. Chairman, I am glad to see that the Office of OMB is well represented here this morning.

Mr. Brooks, Thank you, Congressman Horton; we appreciate that.

Our first witness is the Director of the Office of Management and Budget, James McIntyre, Jr., well known to the subcommittee. He has testified here on several occasions in the past in hearings, including background hearings on trade reorganization held in August. He is a native of Georgia. As a lawyer, he served in various legal capacities in Georgia for the University of Georgia, the Georgia Municipal Association, and for the State of Georgia. He has been Director of the OMB for 2 years.

We are delighted to see you back down here, Mr. McIntyre.

Accompanying Mr. McIntyre is Eric Hirschhorn, a former staff member of this committee, an able and competent man; and a very distinguished gentleman, Harrison Wellford, who has a broad background in government, economics, business, and politics.

We are delighted to see you again.



**STATEMENT OF JAMES T. McINTYRE, JR., DIRECTOR, OFFICE OF  
MANAGEMENT AND BUDGET; ACCOMPANIED BY HARRISON  
WELLFORD, EXECUTIVE ASSOCIATE DIRECTOR FOR REORGANI-  
ZATION AND MANAGEMENT; AND ERIC HIRSCHHORN, DEPUTY  
ASSOCIATE DIRECTOR FOR INTERNATIONAL AFFAIRS AND  
TRADE ORGANIZATION**

Mr. McINTYRE. Thank you, Mr. Chairman.

It is a pleasure to appear before you today to discuss the President's proposal for reorganization of our international trade functions.

I have a lengthy statement that I would like to submit for the record, so that I may confine my remarks to some highlights in that statement.

Mr. Brooks. Without objection, your full statement will appear in the record at this point.

[ Mr. McIntyre's prepared statement follows : ]



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

FOR RELEASE ON DELIVERY  
Expected at 9:30 a.m.  
Tuesday, October 16, 1979

STATEMENT OF  
JAMES T. MCINTYRE, JR., DIRECTOR  
OFFICE OF MANAGEMENT AND BUDGET  
BEFORE THE  
SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY  
U.S. HOUSE OF REPRESENTATIVES

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before you today to discuss the President's proposal for reorganization of our international trade functions. I want to emphasize at the outset that although the formal proposal has been transmitted to the Congress by the President, its final form was arrived at after extensive consultations with Members of the House and the Senate. The constructive suggestions of such Members as Chairman Brooks, Gillis Long, Charles Vanik, Jim Jones, and Bill Frenzel played a large part in shaping the reorganization plan that you are considering today.

Recent events --including our negative trade balance, increasing dependence on foreign oil, and the resulting pressure on the dollar -- have focused much attention on the vitality of our international trade position and on the way our trade machinery is organized. New challenges, such as MTN implementation and trade with state economies, will further test our Government organization.

The primary goal of this reorganization is to improve the Government's capacity to strengthen the export performance and import competitiveness of U.S. industry, taking into account the interests of all elements of our economy. Accordingly, this reorganization is designed to prepare the Federal Government for aggressive enforcement of the MTN codes, which potentially open new markets for U.S. labor, farmers and business. It aims to improve our export promotion activities so that U.S. exporters can better take advantage of trade opportunities and challenges in foreign markets. And it provides an effective mechanism for shaping the disparate, legitimate views of numerous Executive branch agencies into an effective, comprehensive U.S. trade policy.

We in the Executive branch have done a great deal of work on the question of what organization would best promote this country's trade objectives. We have chosen to place policy coordination and negotiation -- those aspects of the trade function that most require comprehensiveness, clout and Government-wide perspective -- in the Executive Office of the President. We have decided to locate operational and implementation responsibilities, which are staff-intensive, in line departments that have requisite resources, as well as knowledge of and ties to major industrial, agricultural, and service sectors of our economy. In doing so, we have chosen deliberately to build on the strengths of existing institutions rather than create a separate new trade bureaucracy.

The Administration reorganization proposal was shaped by the following considerations:

First, our trade structure must take into account the intimate relationship between our trade position and a multitude of domestic policies that affect industry competitiveness. Domestic economic policy, economic development initiatives, energy policy, productivity and innovation

problems, and regulatory programs all affect our trade posture and must be analyzed from that perspective. The isolation of trade policy and programs from these domestic considerations has been a significant problem in the past. As a result of internal reorganization, the Department of Commerce will have an enhanced industry and service sector analysis capability and will take the lead role in establishing a linkage to trade policy and promotion.

Second, organizational arrangements must reflect that trade is a legitimate concern of agencies that have primary responsibility for other, sometimes competing, national policies and objectives. Trade is a critical component of our diplomatic relations with foreign countries, necessitating the State Department's constant attention and involvement. Trade and international monetary matters are intimately linked; therefore, continued Treasury Department presence on the trade scene will be required. USDA's involvement in trade deliberations flows from agriculture's major importance in U.S. trade patterns, and the impact of trade on employment in the U.S. requires careful Labor Department attention to trade matters. The U.S. Government mechanism for trade policy formulation must accommodate these valid interests. Our goal is not to eliminate these differing perspectives, but to provide a means of shaping them, in a timely and definitive manner, into a coherent and balanced national trade policy.

Third, these legitimate multiple interests require a neutral broker, located in the Executive Office of the President. It is difficult, if not impossible, for a cabinet department (to say nothing of a subcabinet agency) to direct its sister agencies because of (1) its relatively equal status and (2) the perception that it would represent or favor a particular constituency, at the expense of a national or Government-wide perspective. We must have one actor with the responsibility, location, and institutional capability to resolve trade policy issues.

Finally we believe that operational functions are best handled outside the Executive Office by those departments that have necessary technical resources and that deal on a day-to-day basis with the relevant sectors of the economy.

The President has concluded that building our trade structure on STR and Commerce best satisfies these considerations.

STR is a unit that has proven itself in the policy and negotiating arenas and has won the confidence of a substantial majority of the private sector. In the recent MTN negotiations, STR was able to develop a negotiating package that represented a broad consensus of national interests. STR's location within the Executive Office and its ready access to the President enabled it to arbitrate effectively among many agencies and constituencies and their often conflicting

interests. This Office benefited also from the recognition abroad that STR spoke for the President. Its small, tight organizational structure enabled it to operate efficiently and effectively, tapping agency expertise when needed and not duplicating resources existing elsewhere. These are qualities we must preserve and build on to upgrade our trade apparatus.

Commerce is a department that has significant experience in trade matters, including policy development, regulation, promotion, and implementation of trade agreements. Commerce contributed importantly to the staff support for our MTN effort. Approximately 40 Commerce personnel worked full time on all aspects of the MTN and were crucial to the negotiations. Commerce's work was highly praised by Ambassador Robert Strauss. It is this staff that will form the core of the unit in Commerce responsible for MTN implementation support.

Commerce already helps staff Section 301 unfair trade practice cases, another area where the department has a proven record of effective cooperation with STR. It has both import and export administration experience and is an agency for which trade is a major concern. Commerce also offers the advantage of an already-established network of broad business contacts and domestic field offices. Most important, Commerce activities in the areas of sectoral analysis, economic development, productivity improvement, and industrial

innovation give us the ability to link international trade programs with other efforts that have a direct bearing on the competitiveness of our domestic industries. In the final analysis, we cannot have effective trade programs or improve our trade posture in the long run if we do not have a solid understanding of the strengths and weaknesses of our domestic economic base.

#### OTHER REORGANIZATION PROPOSALS

In formulating our proposal, we gave close attention to the various Congressional proposals. Indeed, our approach includes many aspects of these proposals:

- ° it strengthens STR through additional resources and responsibilities;
- ° it expands the policy mandate of STR and the STR-chaired Trade Policy Committee;
- ° it centralizes negotiating authority in USTR and establishes USTR as the primary representative of the U.S. in international negotiations;
- ° it unifies and strengthens export development efforts by linking commercial officers overseas with Commerce's export expansion programs and domestic field offices;
- ° it consolidates import administration in a department that has trade as its primary concern; and
- ° it establishes an authoritative voice that can mold the various perspectives of the Executive branch into a coherent national trade policy.



In addition, our approach avoids several major problems of proposals to create a separate trade department or agency. Creation of a separate trade department would isolate trade from programs in Commerce that can have a major positive bearing on American industry's trade competitiveness. Placement of countervailing duty (CVD) and antidumping functions in STR -- whether inside or outside the Executive Office of the President -- creates several problems. The management load involved with these programs is immense and will grow. Placing this responsibility with STR is likely to divert its attention from the policy coordinator and neutral broker roles that most outside constituencies have urged us to protect. Adding to STR the sizable staff necessary to carry out this one responsibility will unbalance STR and risk the effectiveness of the lean and efficient STR operation we have today. In addition, combining lead negotiating responsibility with enforcement could create the appearance that CVD and antidumping cases would be matters for negotiation rather than enforcement. Finally, a trade agency outside the Executive Office -- with or without CVD and antidumping responsibility -- probably would not have sufficient clout to act as an authoritative policy coordinator vis-a-vis the involved departments and agencies.

OVERVIEW OF THE PRESIDENT'S REORGANIZATION PLAN

The reorganization plan now before the Congress has two basic facets.

First, it enhances STR, to be renamed the United States Trade Representative, by centralizing in it U.S. foreign trade policy development, coordination, and negotiation functions. The mandate of the Trade Representative and the interagency Trade Policy Committee that advises him will be broadened to include a wide range of new and existing trade policy coordination functions.

Secondly, it makes the Department of Commerce the focus of operational responsibilities for non-agricultural trade, adding to its existing export promotion duties those of commercial representation abroad, antidumping and counter-vailing duty cases, the non-agricultural aspects of MTN implementation, national security investigations, and embargoes. Complementary action by Commerce to strengthen its industry and service sectoral analysis capabilities will further enhance that agency's contribution to our trade expansion efforts.

UNITED STATES TRADE REPRESENTATIVE: POLICY DEVELOPMENT AND COORDINATION

The Trade Representative, with the advice of the Trade Policy Committee, will be responsible for developing and

coordinating United States international trade policy, including commodity matters and, insofar as they are related to international trade policy, direct investment matters. Under the President's plan, the authority of the Trade Representative and the Trade Policy Committee (TPC) will be substantially broadened to include consideration of the following areas:

International agreements. The Trade Representative will provide policy guidance on U.S. implementation of the MTN agreements, as well as U.S. participation in the General Agreement on Tariffs and Trade (GATT). He also will provide policy guidance on U.S. positions on trade and commodity matters coming before the United Nations Conference on Trade and Development (UNCTAD) and the Organization for Economic Cooperation and Development (OECD), and generally with regard to asserting and protecting the rights of the United States under bilateral and multilateral international trade and commodity agreements.

Import remedies. The Trade Representative will exercise policy oversight of the application of import remedies, review long-term trends in import remedy cases, and recommend appropriate legislative changes. Rather than centering on case-by-case factfinding and determinations, the Trade Representative's coordination of antidumping and countervailing duty matters will be directed toward establishing new precedents, negotiating assurances, and coordinating with other trade concerns.

East-West trade policy. The Trade Representative will coordinate overall East-West trade policy. The functions of the East-West Foreign Trade Board will be transferred to the Trade Policy Committee, and the Board will be abolished.

International direct investment policy. To the extent that they relate to international trade, the Trade Representative will have the lead responsibility for international direct investment policy issues. These will include matters relating to direct investment by Americans abroad, operations of multinational enterprises, multilateral agreements on international direct investment, and direct foreign investment in the United States.

International commodity policy. The Trade Representative will coordinate U.S. Government commodity policies in the international arena. These responsibilities now reside with the Department of State, which shares them on agricultural commodities with the Department of Agriculture.

Energy trade. While the Departments of Energy and State will continue to share responsibility for international energy issues, trade-related energy matters will be coordinated

by the Trade Representative. To facilitate this coordination, the Department of Energy will become a member of the Trade Policy Committee.

Export expansion policy. To ensure that our export expansion efforts, including the reduction of disincentives to export, are pursued vigorously and coordinated Government-wide, the Trade Representative will have policy oversight of U.S. export expansion activities. The Trade Representative will become the Vice Chair and a voting member of the Board of the Overseas Private Investment Corporation, and a non-voting Director of the Board of the Export-Import Bank of the United States.

#### TRADE NEGOTIATIONS

In addition to the areas of policy responsibility that I have just outlined, the Trade Representative, acting with the advice of the Trade Policy Committee, will have the lead U.S. Government responsibility for trade negotiations. In fact, his authority in this area will be substantially broadened to include both bilateral and multilateral trade (including East-West trade), commodity, and direct investment negotiations.

The Trade Representative will represent the United States in the GATT, the principal international forum for

implementing and interpreting the MTN agreements. To handle GATT committee and working group meetings, which occur almost continuously, the Trade Representative will maintain a small permanent staff in Geneva. Any overseas activities of USTR personnel will be fully coordinated with other elements of our diplomatic missions.

In addition to his role in GATT affairs, the Trade Representative will take the lead on trade and commodity issues before OECD and UNCTAD when they are the primary issues under negotiation. Because of their important roles in these areas, the Trade Representative will work closely with both the Department of State and the International Development Cooperation Agency on any trade and commodity matters that come before UNCTAD and the OECD.

Although the Trade Representative will be charged with the overall management of trade negotiations, he will draw heavily on other U.S. Government agencies with relevant expertise and will delegate his responsibility to such agencies in many instances. Operational aspects of the negotiations will be coordinated through a Trade Negotiating Committee, which the Trade Representative will

chair and which will include representatives of the Departments of Commerce, State, Treasury, Agriculture, and Labor.

The Trade Representative will be concerned not only with ongoing trade negotiations and the coordination of trade policies to deal with specific issues, but also with the development of U.S. trade strategies and policies for the longer term. He will seek to crystallize policy issues and will concentrate the attention of Government agencies on those issues likely to have a major effect on the future U.S. trade posture. He will provide policy guidance on the implementation of the MTN agreements. The Trade Representative and the TPC will raise policy issues relating the effects of economic, energy, foreign and other policies on U.S. trade and will seek the most advantageous framework for the expansion of U.S. exports and a strengthened ability to compete against imports.

To assist him in performing this important function, the Trade Representative will consult with and draw upon the broad perspectives represented by the membership of the Trade Policy Committee. The TPC, as I have mentioned, will serve as the principal advisory body to the Trade Representative. As in the past, the Trade Representative will request and consider the advice of the TPC membership,

and will seek agreement on specific issues among member agencies. Undoubtedly, complex policy issues will arise on which it is impossible to reach a consensus. In such instances the Trade Representative will be called upon to exercise his best judgment in resolving the controversy, subject of course to appeal to the President. This process worked well in the MTN negotiations, for example, and we expect it to continue to do so.

The USTR will have adequate resources to carry out his new responsibilities. I expect that in the next few weeks, the President will ask the Congress for prompt consideration of a supplemental funding request for 1980 to enable the USTR to perform at peak efficiency from the time the plan takes effect.

#### DEPARTMENT OF COMMERCE: OPERATIONAL FOCUS

The second major facet of the President's reorganization plan will make the Department of Commerce the operational focus for the administration of laws and programs affecting non-agricultural imports and exports. The plan will transfer to Commerce important new responsibilities for administration of countervailing and antidumping duty programs, foreign commercial representation, and MTN

- implementation.

In so doing, the President's plan assigns these functions to an agency with extensive experience in administering existing trade operations. The Department's new functions



will join its current responsibilities for export promotion, export controls, East-West trade, trade adjustment assistance, trade policy analysis, and monitoring foreign compliance with trade agreements. With the addition of the new responsibilities, the various trade and trade-related functions of the Department of Commerce will be substantially reorganized and will be brought together under a new Under Secretary for International Trade. Related departmental activities in the areas of sectoral analysis, improvement of industrial innovation and productivity, and encouragement of local and regional economic development will be linked closely to an aggressive trade program. Fostering the international competitiveness of American industry will become a principal mission of the Department of Commerce.

Import remedies. The plan transfers to the Department of Commerce responsibility for administration of the countervailing duty and antidumping statutes. A new Assistant Secretary for Trade Administration will administer these programs.

The administration of countervailing duty and antidumping cases has been criticized for delays and for lack of coordination with other trade policies. Assigning these functions to Commerce, which has trade as its primary mission, will afford them a high priority and enable them to be performed efficiently and effectively. The

Trade Representative will have the lead role in negotiations in this area, but Commerce will retain the legal authority to accept assurances on the basis of which investigations may be terminated.

Commercial representation. A recent GAO report on U.S.-Japan trade concluded that "a lack of American export consciousness" is one cause of the trade imbalance between the two nations. A 1977 report of the full Government Operations Committee criticized the friction between Commerce and State over commercial representation responsibilities abroad and concluded that until it was alleviated, "export promotion efforts will continue to be inefficient and ineffective."

The President's plan addresses both of these problems by transferring to the Department of Commerce responsibility for commercial representation abroad. Both domestic and overseas export promotion activities will thus be brought under the umbrella of a single organization, headed by a new Assistant Secretary for Trade Development and charged with aggressively expanding U.S. exports. Communication between commercial officers abroad, who identify export opportunities, and the domestic field offices, which bring them to the attention of U.S. firms, will be enhanced considerably. Placing the Foreign

Commercial Service in the Department of Commerce will enable commercial officers to devote full attention to promoting U.S. exports and providing direct assistance to U.S. firms selling abroad.

Creation of a Foreign Commercial Service in the Department of Commerce will initially involve the transfer from State to Commerce of all full-time American trade promotion and commercial positions overseas, as well as the associated positions held by foreign national employees. Approximately 162 Americans now occupy these positions and are stationed in over 60 countries throughout the world. Over time, the Department of Commerce undoubtedly will review the deployment of commercial officers in light of changing trade circumstances and propose extensions or alterations of coverage of the Foreign Commercial Service.

MTN implementation. One of the most important functions of the Department of Commerce will be the responsibility for implementation support of non-agricultural aspects of the MTN agreements. The President, as he made clear in his message transmitting this reorganization plan, is dedicated to the aggressive implementation of the Multilateral Trade Agreements and to ensuring that the United States seizes its opportunities and enforces its obligations. The Department of Commerce will assign a high priority to this task and will make it a principal

assignment of a new Assistant Secretary for International Economic Policy.

The Assistant Secretary and his staff will pursue these new obligations through the implementation of a variety of programs. They will --

- o monitor agreements and target problems for consultation and negotiation;
- o operate a Trade Information and Complaint Center where the private sector can request trade information and receive advice as to the recourse and remedies available;
- o aid in the settlement of disputes and staff formal complaint cases;
- o identify problem areas for consideration by the Trade Representative and the TPC;
- o conduct educational and promotional programs on the provisions of the agreements and the processes for dealing with problems that arise;
- o provide American business with basic information on foreign trade laws, regulations, and procedures;
- o consult with private sector advisory committees; and
- o provide general analytical support.

The Commerce personnel who provided STR with detailed analytical support through the MTN negotiations will form the core of the unit that will handle these new responsibilities.

Relying on this experienced group will ensure that the Government's institutional memory and expertise on MTN issues will be utilized fully in implementing the programs that convey the opportunities and challenges of MTN to the U.S. business community.

Finally, to help ensure that export financing policy is consistent with export promotion policy (and trade policy generally), the Secretary of Commerce will be made a non-voting Director of the Export-Import Bank, our principal export financing agency.

Each of these new responsibilities is an important one and, with them, the Department of Commerce will play a principal role in trade policy development. They would nevertheless be incomplete without a simultaneous improvement in our understanding of the problems and prospects of U.S. industry, especially in relation to the growing strength of our competition abroad. The Department of Commerce is planning a number of internal organizational changes, including an upgrading of its ability to analyze the industrial and service sectors, that should enable it not only to improve its analysis of problems in these sectors, but also to lend important support to the performance of its new trade responsibilities.

CONCLUSION

The reorganization plan that the President has proposed can only partly address our country's foreign trade problems. Since our organizational structure is not the primary cause of these problems, restructuring our trade organization will not alone reduce our trade deficit or improve the competitive position of American industry.

I believe, however, that the plan is an important first step, and that its contribution will be significant. It will provide us with unified policy direction; improve the application of our trade laws; focus attention on major problem areas; enable the United States to negotiate with foreign governments from a position of strength; and provide a strong institutional base for the new trade order created by the MTN agreements.

Mr. Chairman, a major strength of this proposal is the close cooperation between the Congress and the Executive branch that has accompanied its development. We look forward to continuing to work closely with you and your colleagues as we move toward its implementation.

**Mr. McINTYRE.** Mr. Chairman, let me start off by saying that this is not a perfect plan, but it is a plan that has been derived from extensive consultations with Members of the House and the Senate and the various executive branch agencies and departments that would be affected by it as well as by those interests—business, industry, and labor—that have a stake in the way our trade functions operate in this country.

It does represent a significant step forward in strengthening our international trade posture. The constructive suggestions of such Members of the House as Chairman Brooks, Congressmen Gillis Long, Charles Vanik, Jim Jones, and Bill Frenzel played a large part in shaping the reorganization plan that you are considering today.

Many recent events, some of which have been cited by Mr. Horton, have focused much attention on the vitality of our international trade position and on the way our trade machinery is organized.

New challenges, such as MTN—multilateral trade negotiations—implementation and trade with State economies, will further test our Government organization.

The primary goal of this reorganization is to improve the Government's capacity to strengthen the export performance and import competitiveness of U.S. industry, taking into account the interests of all elements of our economy.

We have chosen to place policy coordination and negotiation, those aspects of the trade function that most require comprehensiveness, clout, and Government-wide perspective, in the Executive Office of the President. We have decided to locate operational and implementational responsibilities, which are staff intensive, in line departments that have requisite resources as well as knowledge of and ties to major industrial, agricultural, and service sectors of our economy. In doing so, we have chosen deliberately to build on the strengths of existing institutions rather than create a separate, new trade bureaucracy.

The administration reorganization proposal was shaped by the following considerations:

First, our trade structure must take into account the intimate relationship between our trade position and a multitude of domestic policies that affect industry competitiveness.

Second, organizational arrangements must reflect that trade is a legitimate concern of agencies that have primary responsibility for other, sometimes competing, national policies and objectives. Our goal is not to eliminate these differing perspectives but to provide a means of shaping them in a timely and definitive manner into a coherent and balanced national trade policy.

Third, these legitimate, multiple interests require a neutral broker located in the Executive Office of the President.

Finally, we believe that operational functions are best handled outside of the Executive Office by those departments that have the necessary technical resources and that deal on a day-to-day basis with the relevant sectors of our economy.

The reorganization plan now before the Congress has two basic facets: First, it enhances the Special Trade Representative, to be renamed the U.S. Trade Representative, by centralizing in it U.S. foreign trade policy development, coordination, and negotiation functions. The mandate of the Trade Representative and the interagency

Trade Policy Committee that advises him will be broadened to include a wide range of new and existing trade policy coordination functions.

Second, it makes the Department of Commerce the focus of operational responsibilities for nonagricultural trade, adding to its existing export promotion duties those of commercial representation abroad, antidumping and countervailing cases, the nonagricultural aspects of MTN implementation, national security investigations, and embargoes.

Complementary action by Commerce to strengthen its industry and service sectoral analysis capabilities will further enhance that agency's contribution to our trade expansion efforts.

There is one new element that I would like to mention specifically with respect to the Trade Representative. The Trade Representative will become the Vice Chair and a voting member of the Board of the Overseas Private Investment Corporation and a nonvoting director on the Board of the Export-Import Bank of the United States. The other functions and responsibilities are fully outlined in my testimony, Mr. Chairman.

Although the Trade Representative will be charged with the overall management of trade negotiations, we would expect him to draw heavily on other U.S. Government agencies with relevant expertise and, in some instances, delegate his responsibilities to such agencies.

There is one element of the reorganization as it affects the Department of Commerce that I also would like to highlight, Mr. Chairman. The others are explained fully in my prepared statement.

I would like to talk for a moment about commercial representation. A recent GAO report on United States-Japan trade concluded that, "a lack of American export consciousness" is one cause of the trade imbalance between the two nations. A 1977 report of the full Government Operations Committee criticized the friction between Commerce and State over commercial representation responsibilities abroad and concluded that until it was alleviated "export promotion efforts will continue to be inefficient and ineffective."

The President's plan addresses both of these problems by transferring to the Department of Commerce responsibility for commercial representation abroad. Both domestic and overseas export promotion activities will thus be brought under the umbrella of a single organization.

In conclusion, Mr. Chairman, I believe that this plan is an important first step and that its contribution will be significant. It will provide us with unified policy direction, improve application of our trade laws, focus attention on major problem areas, enable the United States to negotiate with foreign governments from a position of strength, and provide a strong institutional base for the new trade order created by the MTN agreement.

Mr. Chairman, that concludes my remarks. I will be glad to answer the subcommittee's questions.

Mr. Brooks. Thank you very much, Mr. McIntyre.

I have a few questions for you.

Under the plan, the policy and implementation functions for the most part are divided between the Office of the Trade Representative and the Department of Commerce. How do you answer the objection to splitting the responsibility for setting policy from the responsibility for implementing that policy when set?



**Mr. McINTYRE.** Mr. Chairman, in the area of trade, there are many departments and agencies that have and will continue to have a legitimate interest in trade matters. For example, the State Department is interested in the international affairs aspects of trade; Labor is interested in trade matters because it administers part of the trade adjustment assistance program; Agriculture because of the many programs in the agricultural area that are related to trade.

We do not think it is possible for one department or agency to deal successfully with these broad interests in terms of both implementing and establishing the policy. We also do not think that one department could successfully coordinate all of these interests. Only in the Executive Office of the President, in our judgment, can it all be put together.

On the other hand, we do not want to bog the Executive Office units down with a large number of operational responsibilities and the large number of personnel that would be required to carry out those operational responsibilities.

We found that this process worked quite well in developing the MTN agreement, and we think it is workable in the way we have laid it out.

One final point: We think there has to be a neutral broker, and that neutral broker would be the U.S. Trade Representative in the Executive Office of the President who could deal from a neutral position in trying to balance the various interests of departments and agencies and come to a coherent trade policy.

**Mr. Brooks.** Since the U.S. Ambassador in any country has the responsibility for setting the limits on U.S. Government personnel on duty in that country, will the Ambassador be the authority who determines the size of permanent commercial missions overseas?

**Mr. McIntyre.** Mr. Chairman, while the views of the Ambassador are given great weight, my understanding is that under the current process the Ambassador does not have final or determinative say-so on those issues.

We have a system called the MODE system—monitoring overseas direct employment—which is led by the State Department but gives other agencies a say-so in decisions about overseas personnel.

**Mr. Brooks.** Could you give us an example of how this reorganization plan will increase trade exports?

**Mr. McIntyre.** The primary ways that this plan would increase exports, in my judgment, are, one, by providing a forum for establishing trade policy through the Special Trade Representative; and, two, by establishing an aggressive effort to take advantage of the opportunities afforded U.S. industry under the MTN agreements.

Specifically, the linkage of the commercial attachés to the Commerce domestic field structure will provide us with a direct line from American businesses to foreign export markets.

A specific example might be this. Let us say a U.S. exporter of softwood is looking for an overseas market for his product in the European community. This firm could go to the Commerce field office in its area; the field officer would then contact Washington for specific information on softwood or plywood exports—for example, tariffs, markets, standards, and other types of information. Once this specific information is gathered by the field officer, then inquiries are sent to the commercial attachés in the European community to search for a potential client.

I think it is in this process, where we have this direct line from the domestic field officers to the foreign officers, that we would enhance our ability to increase exports.

Mr. BROOKS. In section 5(b) (1) of the plan it says, "transfers to the Secretary of Commerce all trade promotion and commercial functions of the Secretary of State which are performed in full-time overseas trade promotion and commercial positions or performed in such countries as the President may from time to time prescribe."

How does the administration intend to carry out this process under what appears to be an open-ended provision?

Mr. McINTYRE. Do you mean the process of moving commercial officers?

Mr. BROOKS. The trade promotion and commercial functions, yes.

Mr. McINTYRE. I think that is a decision we have to make down the road as conditions and circumstances change.

The Commerce Department may wish to propose movement—either adding some countries or increasing representation in countries. But the President, himself, would make those final decisions.

Mr. BROOKS. All right.

Has a determination been made as to the personnel levels for the Office of U.S. Trade Representative?

Mr. McINTYRE. No, it has not.

This is an issue that we are looking at in the OMB budget review process which we are currently engaged in.

Mr. BROOKS. They have 59 people now; and we have some considerable added authority and responsibility reorganization which will be given to them in this. Do you have any ballpark figures on that, or numbers of personnel even?

Mr. McINTYRE. Mr. Chairman, I do not have a specific figure I could give you. I would hesitate even to give you a range. I can tell you that, one, there are some new responsibilities, and two, we will have to provide additional personnel to the Trade Representative for him to carry out those responsibilities, but the exact number will be derived through the OMB budgetary process.

We would envision making that decision in the next few weeks and sending a supplemental request up for the Congress to consider.

Mr. HORTON. Mr. Chairman, would you yield? I have a question on that subject.

Mr. BROOKS. Certainly.

Mr. HORTON. What is the ballpark figure? What are we talking about? Are we talking about 10 more, or 100 more?

Mr. McINTYRE. I think somewhere in between those two numbers.

Mr. BROOKS. Under 140 or 150?

Mr. McINTYRE. I would think so.

Mr. HORTON. My concern is that, with the added responsibilities, you ought to have enough personnel to do the job.

Mr. McINTYRE. I would agree with that.

Mr. HORTON. I am not being niggardly about it; I do not want to cut you back. I think you ought to have sufficient personnel to do the job because I think trade is a very important responsibility. I am not advocating that you cut back; I am advocating that you take a realistic look at it and provide STR with sufficient personnel to do the job that has to be done.

Mr. McINTYRE. Mr. Horton, that is exactly what we intend to do. That is why I hesitate to give you a number today. What we have to do is sit my budget examiners down and go over the needs of the Special Trade Representative.

We will make a "passback" to the Special Trade Representative. If he disagrees, then he and I will sit down and personally go over his requirements. If we cannot agree, then the President will decide what will be recommended to the Congress.

But I can assure you that I do not want them to be either too fat or too lean. I do want them to have adequate resources to carry out their new responsibilities, but I do not want them to have more personnel than they need.

Mr. BROOKS. Mr. McIntyre, can you give us the budget request for the Office, as expanded under the plan? How long will it take you to make that determination?

Mr. McINTYRE. Mr. Chairman, I do not usually appear before this subcommittee on budgetary matters. It has been my practice in the past to maintain the confidentiality of the individual agency's request. I do not in any way intend to be evasive about that, but I think those requests sometimes change.

I would respectfully request that we go through the normal process of deciding those requirements for the STR; we make our recommendations; and, as you know, the Congress will have the final say as to the funding level of this agency.

Mr. BROOKS. I understand all that. I am just telling you that I think you ought to have some idea of how many people you are going to use and roughly what that budget is going to be if I am going to answer that question on the floor to 435 people. They are going to say, "What are you going to spend, and how many people are you going to have?" If I say, "I don't know; we are working on it," they are going to say I ought to be bored for the hollow horn.

So, if we are going to promote this thing and get this through, we ought to have some idea of how many people you are going to use. I do not care if it is 59 or 8 million, but whatever the number is, I want an idea. I am not holding you to it, but I want a rough idea to tell them. The same is true on the money.

Reuben Askew who is going to be the head of it does not know; he just got here. You have new authorities in there, so it is going to be difficult to ascertain. We understand that you are not going to know exactly, and it might fluctuate. But I want a ballpark figure, as Mr. Horton says. We have to have some number to give to them.

Mr. McINTYRE. I was just going to suggest to you that by the time you have to go to the floor, I think we will be far enough along to give you some ballpark figures.

Mr. BROOKS. We will put it this way; we will go to the floor after we get them.

Mr. McINTYRE. Yes, sir.

[Additional information follows:]

We expect to transmit a supplemental fiscal year 1980 appropriation request for the Office of the Special Trade Representative within a few days.

The request will seek an STR personnel level for fiscal year 1980 of between 109 and 116, at an additional cost of slightly more than the \$4 million already approved for fiscal year 1980.

**Mr. BROOKS.** We appreciate that.

**Mr. Horton?**

**Mr. HORTON.** Thank you, Mr. Chairman.

Jim, I would like to know what official functions are being transferred to the new STR. The message for the plan lists quite a few new "policy," "coordination," and "negotiating" responsibilities; yet, in section 5 of the proposal on transfer of functions, what are listed are those transferred to the Commerce Department.

In other words, it is very clear what legal functions are going to be transferred to Commerce; but what about those that are being transferred to the new STR?

**Mr. McINTYRE.** The primary responsibilities for policy coordination, policy development, and negotiation will be handled by the Trade Representative in his role as staff to the President. So, there are no specific statutory functions that we have to transfer other than those that already exist under the MTN and related authorizing legislation for the STR plus the President's authority to assign those functions to the STR under Executive order.

In addition to that, section 301 of the Trade Act of 1974 will be the principal statutory means for carrying out many of the responsibilities, such as for making complaints of violations of the MTN agreements. Title IX of the new Trade Agreements Act amended section 301 to place the Trade Representative in charge of this process.

So, our judgment is that there is no need to transfer any additional statutory functions to STR under this plan.

**Mr. HORTON.** Thank you.

Who is going to be doing the international commodity negotiations—the new Trade Representative, the State Department, or both? The plan gives the Trade Representative the responsibility, but yet the functions are not switched. Then your plan says, "nothing in this reorganization plan is intended to derogate from the responsibilities of the Secretary of State."

**Mr. McINTYRE.** The intent is that the Trade Representative shall be responsible for trade negotiations, including commodities. Of course, the State Department would be on the Trade Negotiation Committee. We would envision the Trade Representative closely coordinating these negotiations with the Department of State and relying upon their special expertise in conducting these negotiations.

In some cases, the Trade Representative would perhaps delegate some authority to the State Department, but I would envision that in practically all cases there would be some joint or team effort.

**Mr. HORTON.** What you are saying, in essence, is that the Trade Representative will have the responsibility for it, but it will be coordinated with the State Department. In other words, the ultimate decision, if need be, would be made by the Trade Representative as the arm of the President.

**Mr. McINTYRE.** That is correct.

**Mr. HORTON.** Who will be doing the energy trade negotiations—STR, the State Department, or the Energy Department?

**Mr. McINTYRE.** It would work primarily the same way.

The Secretary of Energy, just as the Secretary of State under the former question, would still maintain his responsibility for advising

the President on international affairs and implications of the negotiations; so would the Secretary of Energy with respect to the implications of any energy negotiations.

Mr. HORTON. I wonder what would be the exact relationship between the Trade Representative and the Trade Coordinating Committee? It is a little unclear who will have the final authority on trade policy.

Mr. McINTYRE. The Trade Policy Committee?

Mr. HORTON. Yes.

Mr. McINTYRE. The Trade Policy Committee, which is composed I think, of all of the Cabinet departments, plus some other members, would be advisory in nature, would be a forum in which the Trade Representative would try to hammer out differences on policy issue. But the final say-so on trade policy would be vested in the Trade Representative.

Obviously, a Cabinet Secretary, if that individual had serious disagreements with the policy, would maintain his or her right to appeal a decision to the President.

Mr. HORTON. Do you have any plans to move either the Maritime Administration or the National Oceanic and Atmospheric Administration out of the Department of Commerce to make that a more streamlined Department?

Mr. McINTYRE. There are no plans to move either of those agencies at this time.

Mr. HORTON. Mr. Chairman, I have some other questions, but for the sake of cutting back on time, I would like to submit them to the Director.

If I submit them to you, Jim, I would like to ask that they be answered in writing so we can put them in the record.

Mr. McINTYRE. Yes, sir. We would be glad to do that.

Mr. BROOKS. Without objection, they will appear in the record at this point.

[The material follows:]

**QUESTION:** Why did you reject proposals that placed all trade functions including both policy and implementation in one agency such as a separate Department of Trade or a revitalized Department of Trade and Commerce?

**ANSWER:** Trade is a legitimate concern of several U.S. Government agencies: Trade is a natural component of the U.S.'s foreign relations with countries and as such, the State Department will maintain interest and involvement in trade; trade and international monetary matters are intimately linked and, hence, continued Treasury Department presence on the trade scene is required; and the impact of trade on employment in the U.S. means the Labor Department will maintain its role in trade. USDA's involvement in trade deliberations flows from Agriculture's importance in the U.S. trade effort. Our goal is not to eliminate these differing perspectives, but to provide a means of extracting from them, in a timely and definite manner, a coherent and balanced national trade policy.

Accordingly, the U.S. government mechanism for trade functions must accommodate these valid institutional interests, particularly at the policy stage.

We believe that these multiple interests require a neutral broker, such as STR, located in the Executive Office, acting with the clout of the President. It is difficult if not impossible for a Cabinet department (or subcabinet agency) to direct its sibling agencies - (1) because of its equal relative status and (2) because it probably would be perceived as representing or favoring a particular constituency.

Thus we have proposed maintaining the Trade Policy Committee -- a forum in which all the interests are represented -- and continuing and enhancing STR as the neutral broker.

As for implementation, we believed that more consolidation was possible and desirable.

**QUESTION:** If there are not going to be any more major MTN negotiating rounds, why do we really need the STR office? Wasn't the STR really created just for these major trade negotiations?

**ANSWER:** Because many agencies have a legitimate interest in trade matters, we see a strong need for an Executive Office presence that can resolve policy differences (subject, of course, to the final word of the President).

Also, there will be continuing major trade negotiations of the type requiring the attention of STR.

**QUESTION:** According to your fact sheet, U.S. commercial attaches in our major trading partner countries will be transferred to the new Department of Trade and Commerce? What do you mean by major trading partners? How many countries does this include?

**ANSWER:** "Major trading countries" are those that are currently or potentially the significant destinations of our non-agricultural exports.

We have decided to transfer all 162 full-time commercial officer positions from the Department of State to the new Department of Trade and Commerce. Currently these officers are located in 66 countries.

**QUESTION:** Why didn't you simply switch all commercial attaches to the new department?

**ANSWER:** We are switching all full-time commercial officer positions.

**QUESTION:** Besides renaming the Department of Commerce and establishing a new Under Secretary for Trade, what are you really doing new and different to increase exports?

**ANSWER:** Establishing a strengthened Department of Commerce\* will focus top level attention on trade in general and increasing U.S. exports in particular. The Department will have a number of improved mechanisms for performing this task: First, housing the commercial attaches in the same department with Commerce field offices should improve greatly the flow of information between foreign markets and domestic manufacturers, making for direct communication between Rochester and Rome. Second, improved coordination of trade policy within the Executive branch will permit aggressive enforcement of the new MTN codes, leading to expanded export opportunities for U.S. industry.

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\* Because of concern that the name "Department of Trade and Commerce" might be confusing or redundant, we have decided to retain the name Department of Commerce.

**QUESTION:** Who will have the final authority on agriculture exports? Will it be the new STR office, the Trade Policy Committee or the Agriculture Department?

**ANSWER:** Most agricultural trade functions, such as the promotion of U.S. agricultural exports by the Foreign Agricultural Service and the activities of U.S. agricultural attaches, will remain under the authority of the Secretary of Agriculture. Also, the Department of Agriculture, in light of its particular expertise, will be responsible for MTN implementation support functions and section 301 staffing for agricultural products. The TPC, of which Agriculture is a member, will consider trade policy issues arising from actions under U.S. statutes (e.g., section 301), from international dispute settlement procedures (e.g., Article XXIII of the GATT), and from implementation of MTN agreements (e.g., the subsidies code). STR will manage all negotiations; however, we would expect STR to delegate as appropriate, i.e., in this case to Agriculture, a member of the Trade Negotiating Committee.

**QUESTION:** How many people would be in the new Office of the United States Trade Representative?

**ANSWER:** The Office of the Special Trade Representative currently has a staff of 59. The new Office of the United States Trade Representative, the successor agency to STR, would have added responsibilities. These new responsibilities will require additional staff to perform them effectively. We do not know at this time the exact number of staff positions that would be added to this office; full congressional consideration of this issue will take place when the authorization and appropriation bills for the Office are transmitted early next year.

**QUESTION:** Do you think that there will be enough people to properly do all policy coordination and trade negotiations?

**ANSWER:** Yes. The reorganization will improve coordination of trade policy, thus providing an opportunity for more efficient and effective utilization of available resources.



**QUESTION:** Besides establishing the new post of Under Secretary for Trade, do you anticipate any people will be added to the new Department?

**ANSWER:** At this time, we do not envisage the creation of new staff positions in Commerce. In addition to the Under Secretary for International Trade, we would create two new Assistant Secretaries. Also, we will upgrade the existing Under Secretary position to Deputy Secretary. Essentially, we expect to transfer existing personnel to Commerce as follows (estimates):

-- 219 positions for countervailing duty and antidumping cases (130 of these are new positions)

-- 162 commercial officer positions plus 494 affiliated local employees

**QUESTION:** Do you intend to leave the Maritime Administration and the National Oceanic and Atmospheric Administration in the Department of Trade and Commerce?

**ANSWER:** Our proposal does not call for moving these two agencies from the Department of Commerce.

**QUESTION:** Will you have to increase the staff for the Trade Policy Committee and, if so, how large an increase to anticipate? Would they be part of the STR staff?

**ANSWER:** We anticipate a moderate increase in the number of persons doing staff work for the Trade Policy Committee. These people will be a part of the USTR staff.

**QUESTION:** Did you consider transferring the STR to a new Department of Trade and Commerce and giving it a so-called "broken line" relationship such as the Arms Control Agency now has with the State Department? You could still have an STR Ambassador, a separate STR, yet everything would essentially be under one umbrella.

**ANSWER:** We did consider transferring STR to the Department of Commerce but decided against it because even a "broken line" relationship might identify STR too closely in some eyes with the industrial side of our trade community. This would be a severe detriment indeed, since STR would not be able to retain its "honest broker" role and its Executive Office status.

**QUESTION:** What would be the relationship of the State Department's Office of the Under Secretary for Economic Affairs and its Bureau of Economic and Business Affairs which are both heavily involved with trade matters with your new offices?

**ANSWER:** Both these offices play a large role in formulating the State Department's input into trade policy and negotiations. The Bureau of Economic and Business Affairs has an Office of International Trade which staffs State's participation in the TPC; it has the Office of East/West Trade which, even when STR takes over the negotiations, will be considerably involved in East/West trade matters; it has the Office of International Commodities which will still play a significant role in commodity negotiations even after USTR assumes the lead role; and finally, Economic Bureau (EB) has the Office of Commercial and Maritime Affairs which will, after the transfer of the major trading partner commercial attaches, oversee State's remaining commercial activities. Therefore, we anticipate these State units will relate both with the Department of Trade and Commerce (on the attaches) and with USTR (on TPC issues and trade negotiations).

**QUESTION:** Even though you do transfer some Treasury Department functions to the new offices, there are still many left in Treasury that are trade related. For example, the Office of Trade and Raw Material Policy has four divisions for Trade Policy and Negotiations, Raw Material and Ocean Policy, East-West Economic Policy and Trade Finance. Why aren't these transferred?

**ANSWER:** The Treasury Department, as well as other agencies in the Government, will retain substantive and policy interest in trade matters. This is consistent with long standing congressional intent (see, for example, section 242 of the Trade Expansion Act of 1962, 19 U.S.C. 1872) that U.S. trade policy take into account a number of domestic and international interests including those of financial institutions, labor, consumers, business, farmers, importers, exporters, et cetera. Retaining some trade personnel in Treasury will allow that department to fulfill this role.

Although the Office of East-West Economic Policy performs some functions that are trade-related, its primary responsibility is to act as Treasury's policy staff for East-West economic and finance matters.

**QUESTION:** Why didn't you transfer the Treasury Department's Office of Tariff Affairs?

**ANSWER:** In assigning TAC the responsibilities for countervailing and antidumping duties, we are proposing the transfer of the Office of Tariff Affairs, and also the transfer of Customs' staff engaged in countervailing and antidumping work.

The attached charts identify current governmental units which participate in the formulation and implementation of U.S. trade policy. The charts provide information regarding units the primary mission of which is trade policy formulation and implementation. Given the complexity of international economic and trade relations in a modern world, many other governmental units are called upon to provide technical advice or expertise on specific issues. However, the primary mission of these units is not trade policy formulation and implementation and therefore such units have not been included.

AGRICULTURE

<u>Organization Unit</u>	<u>Trade Policy Formulation</u>	<u>Trade Policy Implementation</u>
Secretary of Agriculture	Member TPC	Prepare recommendations regarding the use of Section 22 import restrictions for review by the President
Undersecretary for International Affairs and Commodity Programs	Member East West Foreign Trade Board	
Agricultural Stabilization and Conservation Service	Member TPCG	Administers price support programs
Commodity Credit Corporation	Formulates policy recommendations for use of import restrictions under Section 22 of the Agricultural Adjustment Act of 1933	Stabilizes and protects farm income and prices, assists in maintaining balanced and adequate supplies of agricultural commodities, and facilitates orderly distribution of commodities
Foreign Agricultural Service	Member of TPCG	Staff support for implementation of the MTR
Assistant Administrator, International Trade Policy	Provides staff support for the formulation of U.S. trade policy and negotiation of multilateral and bilateral trade agreements	Assists in the administration of GSP
	Participates in the formulation of policy regarding trade-related legislation	

Organizational Unit

Assistant Administrator,  
Commodity Analysis

Assistant Administrator,  
Market Development

Assistant Administrator,  
Attache Service

AGRICULTURE

Trade Policy Formulation

Prepares commodity analysis  
in support of trade policy  
formulation and commodity  
negotiations

Prepares recommendations for  
use of section 22 restrictions

Export promotion and domestic  
market development

Trade Policy Implementation

Administers agricultural import  
controls

Support for NTM implementation  
Export promotion

COMMERCE

<u>Organizational Unit</u>	<u>Trade Policy Formulation</u>	<u>Trade Policy Implementation</u>
<u>Secretary of Commerce</u>	Member of the TPC Member of the East-West Foreign Trade Board	Chairs certain bilateral commissions and leads delegations for certain bilateral consultative mechanisms
<u>Assistant Secretary for Industry and Commerce</u>	Member of the TPRC	Chairs certain bilateral commissions and consultative mechanisms
<u>Bureau of International Economic Policy and Research</u>	Alternate member of the TPRC	Chairs some subcommittees of bilateral commissions and consultative mechanisms
<u>Office of International Trade Policy</u>	Member of the TPSC Provides staff support for formulation of U.S. trade policy and negotiation of multilateral and bilateral trade agreements Formulates policy concerning legislation affecting existing tariffs or the trade agreements program Participates in the negotiation of commodity agreements	Staff support for implementation of RTN and other trade agreements Staffing for section 301 and section 337 actions Assists in administration of the U.S. Generalized System of Preferences Staff support for import relief and market disruption cases Staff support for certain bilateral commissions and consultative mechanisms
<u>Office of Country Affairs</u>	Provides staff support for negotiation of bilateral trade agreements	Participates in bilateral commissions and consultative mechanisms Staffs U.S. - Japan Trade Facilitation Committee
<u>Bureau of Field Operations</u>	Business development and export awareness	

COMMERCEOrganizational Unit

Bureau of East West Trade

Trade Policy Formulation

Participates in negotiations of commercial agreements with communist countries

Staff support for development of U.S. East West trade policy

Staff support for formulation of legislative policy affecting East West trade

Bureau of Export Development

Formulates policy on legislation affecting U.S. export expansion programs and U.S. export capabilities

Bureau of Trade Regulation

Bureau of Domestic Business Development

Office of Textiles

Economic Development Administration

Trade Policy Implementation

Staffs cabinet-level joint economic commissions

Staff support for East West Foreign Trade Board

Promotes U.S. exports to communist countries and aids U.S. firms in conducting business in such countries

Administers and participates in certain bilateral commissions and consultative mechanisms

Export promotion and development

Export awareness

Administers the U.S. watch quota program, the Foreign Trade Zones program and the Florence Agreement

Chairs Committee for the Implementation of Textile Agreements (CITA)

Monitors textile agreements and trade in textile products

Provides trade adjustment assistance to firms and communities

COMMERCE

Organizational Unit

Census

Trade Policy Formulation

Participates in the development  
of U.S. views on tariff nomenclature  
modernization

Trade Policy Implementation

Prepares data necessary for implementation  
of the GSP  
Participates in statistical enumeration  
and data comparability work of the  
section 484(e) committee



COUNCIL OF ECONOMIC ADVISORSOrganizational Unit

Chairman

Council Members

Senior Staff Economist

Trade Policy Formulation

Member of the TPC

Member of the East West Foreign  
Trade Board

Member of the TPRC

Member of the TPRC

Trade Policy Implementation

DEFENSE

Trade Policy Implementation

Trade Policy Formulation

Organizational Unit

Secretary of Defense

Member of the TFC

Member of the East West Foreign Trade Board

Deputy Assistant Secretary for International Economic Affairs

Member of the TFMG

Focal point for approval of bilateral defense procurement memoranda of understanding negotiated by other DOD offices

Office of Strategic Technology and Munitions Control  
International Economic Affairs Directorate

Policy formulation for the control of the export of strategic technology

Member of the TFS

Defense Security Assistance Agency

Sale of defense weapons systems to foreign governments

EXPORT - IMPORT BANK

Organizational Unit

Trade Policy Formulation

Trade Policy Implementation

President

Member East West Foreign Trade Board

Senior V.P., Direct  
Credit and Financial Guarantees

Direct loans and certain loan guarantees  
to support exports

Senior V.P., Exporter Credits,  
Guarantees and Insurance

Supplier credit programs (loan guarantees  
and insurance) to support exports

Senior V.P., Research  
and Policy Analysis

Policy guidance on Ex-Im  
operations

Senior V.P., International  
Relations

Export market development

Directs Bank efforts in multicountry  
cofinancing in certain key sectors,  
such as aircraft

INTERIOR

Trade Policy Implementation

Trade Policy Formulation

Organization Unit

Secretary of the Interior  
 Assistant Director for Energy  
 and Minerals  
 Associate Director, Bureau of  
 Mines for Minerals and  
 Materials Supply/Demand Analysis  
 Office of Mineral Policies and  
 Research Analysis  
 Branch of Economic Analysis,  
 Bureau of Mines

TFC member

TFRG member

Alternate member TFRG

TFRG member

Alternate TFRG member

Participates in the formulation  
 of U.S. trade policy and negotiation  
 of multilateral and bilateral trade  
 agreements

JUSTICETrade Policy ImplementationTrade Policy Formulation

Member of the TPC

Member of the TPAC

Member of the TPAC

Organizational Unit

Attorney-General

Assistant Attorney-General  
for AntitrustDirector, Trade Policy,  
Foreign Commerce Section,  
Antitrust Division

LABOR

<u>Organizational Unit</u>	<u>Trade Policy Formulation</u>	<u>Trade Policy Implementation</u>
Secretary of Labor	Member of TFC	
Deputy Undersecretary for International Labor Affairs	Member of TPMG	
Associate Deputy Undersecretary for International Affairs	Alternate member TPMG	
Office of Foreign Economic Policy	TPSC Member	Assists in administration of the GSP
	CITA Member	Staff support for import relief and market disruption cases
	Provides staff support for the formulation of U.S. trade policy and negotiation of multilateral and bilateral trade agreements	
	Participates in the formulation of policy regarding trade-related legislation	
	Participates in the negotiation of textile and commodity agreements	
Office of Trade Adjustment Assistance		Certifies workers eligible for trade adjustment assistance
Employment and Training Administration		Provides adjustment assistance benefits

OFFICE OF MANAGEMENT AND BUDGET

Organizational Unit

Director

International Affairs Division

Trade Policy Formulation

Member of the TPC

Member of the East West Foreign Trade  
Board

Participates in meetings of the TPMG  
and TPSC

Trade Policy Implementation

SPECIAL TRADE REPRESENTATIVE

Organizational Unit

Trade Policy Formulation

Directs participation in bilateral and multilateral trade negotiations

Coordinates formulation of trade policy

Chairs Trade Policy Committee (TPC), Trade Policy Review Group (TPRG) and Trade Policy Staff Committee (TPSC)

Coordinates and usually leads negotiation of bilateral textile agreements pursuant to the Arrangement Regarding International Trade in Textiles (ATTA)

Trade Policy Implementation

Implements the trade agreements program

Enforces ATTA and other trade agreements

Administers the operation of the U.S. Generalized System of Preferences

Chairs certain bilateral commissions and consultative mechanisms

Formulates recommendations for Presidential action on import relief cases, market disruption cases and unfair trade complaints under section 301 and section 337

Drafts and secures the enactment of major trade legislation affecting the operation of the trade agreements program and participates in the formulation of policy on other trade bills

Member of the East West Foreign Trade Board



STATE

Organizational Unit

Secretary of State

Assistant Secretary for  
Economic and Business Affairs

Office of International  
Trade

Trade Policy Formulation

Member of the TPC

Member of the East West Foreign  
Trade Board

Member of the TPRG

Chair of the Commodity Task Force

Member of the TPSC

Provides staff support  
for formulation of U.S. trade  
policy and negotiation of multi-  
lateral and bilateral trade  
agreements

Formulates policy concerning legis-  
lation affecting existing tariffs  
or the trade agreements program

Participates in negotiation of  
bilateral textile agreements

Coordinates U.S. participation in GATT  
and the OECD Trade Committee and  
discussion of trade issues between  
developed and developing countries  
in UNCTAD and other international fora

Office of International  
Commodities

Negotiates commodity agreements

Develops U.S. policy on international  
commodity trade

Participates in interagency group to  
formulate strategic stockpile policy

Trade Policy Implementation

Chairs certain bilateral commissions  
and leads delegations for certain  
bilateral consultative mechanisms

Chairs certain bilateral commissions  
and leads delegations for certain  
bilateral consultative mechanisms

Assists in the administration of the GSP

Staff support for import relief and market  
disruption cases

Staff support for implementation of the  
MTN and other trade agreements

Staff support for bilateral commissions  
and consultative mechanisms

<u>Organizational Unit</u>	<u>STATE</u>	<u>Trade Policy Implementation</u>
Office of East/West Trade	<p>Formulates policy on East West trade</p> <p>Participates in negotiation of commercial agreements with communist countries</p> <p>Coordinate U.S. Government positions in COCOM for the multilateral application of export controls for national security purposes.</p> <p>Advise Department of Commerce on foreign policy aspects of U.S. export control operations under the Export Administration Act</p> <p>Advise the Department of Commerce and the Department of the Treasury on foreign policy aspects of foreign assets control and transaction controls</p>	<p>Administers the Battle Act (concerning trade in strategic goods)</p> <p>Staff support for U.S. Delegation to COCOM</p>
Commercial Attaches		Trade promotion and overseas services to American Business
Economic/Commercial Attaches		Support for MTW Implementation
International Communication Agency		Administers Beirut Agreement

TREASURY

<u>Organizational Unit</u>	<u>Trade Policy Formulation</u>	<u>Trade Policy Implementation</u>
Secretary of the Treasury	Member of the TPC Chairs East West Foreign Trade Board	Chairs U.S./U.S.S.R. Joint Commission Chairs U.S./P.R.C. Joint Commission Chairs U.S./Saudi Arabia Joint Commission Chairs U.S./Israel Joint Commission
Assistant Secretary of International Affairs	Alternate member of TPC Member of TPAC	
Office of International Trade	Member of TPSC and CITA Provides staff support for the formulation of U.S. trade policy and negotiation of multilateral and bilateral trade agreements	Assists in administration of Generalized System of Preferences
Office of East West Economic Affairs	Participates in the formulation of policy regarding trade-related legislation Provides policy guidance on East West trade issues	Staff support for import relief and market disruption cases
Office of Trade Finance	Participates in negotiation of commercial agreements with communist countries	Staff support for the East West Foreign Trade Board
Office of New Materials and Ocean Policy	Provides policy guidance to Export Import Bank and recommends U.S. positions for international negotiations on terms and extent of official trade financing	
General Counsel	Participates in negotiation of commodity agreements	
Office of Tariff Affairs		Administration of countervailing duty and dumping statutes; conducts national security investigations under section 332 of the Trade Expansion Act of 1962

TREASURY

<u>Organizational Unit</u>	<u>Trade Policy Formulation</u>	<u>Trade Policy Implementation</u>
Office of Special Projects		
Assistant Secretary for Enforcement and Operations		Implementation of the subsidies/counter-vailing duty code
Office of Foreign Assets Control	Prepares policy guidance on assets control program	Administration of the trigger price mechanism
U.S. Customs Service	Participates in the development of U.S. views on tariff nomenclature modernization	Administers foreign assets controls, transaction controls, Cuban and Rhodesian embargoes
		Conducts investigations under the counter-vailing duty and dumping statutes
		Implementation of the valuation code
		Monitors and enforces U.S. import quotas
		Enforces U.S. customs laws and regulations
		Participates in statistical enumeration and data comparability work of the section 484(e) committee

U.S. INTERNATIONAL TRADE COMMISSION

Organizational Unit

Trade Policy Formulation

Trade Policy Implementation

Commissioners

Decisions and recommendations in import relief, market disruption, dumping, countervailing duty, and unfair import practices actions

Office of Investigations

Conducts injury investigations under dumping, countervailing duty, import relief and market disruption cases

Office of Industries

Conducts some dumping investigations and provides support for the Office of Investigations

Executive Liaison and Special Advisor for Trade Agreements

Represents ITC at TPSC meetings

Assists in the administration of the GSP  
Assists in the preparation of Presidential proclamations necessary to implement the trade agreements program

Office of Legal Services

Conducts section 337 investigations

Office of Nomenclature, Valuation and Special Activities

Coordinates the development of U.S. views on tariff nomenclature modernization and represents the U.S. at international meetings

Publishes the Tariff Schedules

Participates in statistical enumeration and data comparability work of the section 484(e) committee

Assists in the preparation of Presidential proclamations necessary to implement the trade agreements program

Mr. BROOKS. The gentleman from Florida, Mr. Fascell, is recognized.

Mr. FASCELL. Thank you, Mr. Chairman.

Mr. McINTYRE, can you separate the trade negotiations and foreign affairs, as envisioned by this plan?

Mr. McINTYRE. I do not think you can completely separate international affairs activities, Mr. Fascell, from the trade policy or negotiation responsibilities that we are discussing in this plan. What we have tried to do to insure that there is better coordination is to include the Department of State on both the Trade Policy Committee and the Trade Negotiating Committee, clearly putting the Trade Representative in a position of accountability for trade policy and for trade negotiation.

State remains, and the Secretary of State is, the principal adviser to the President on foreign policy.

Mr. FASCELL. What you are saying is the obvious, that any conflict would have to be resolved by the President.

Mr. McINTYRE. If it could not be resolved between the Secretary of State and the Trade Representative.

Mr. FASCELL. If it cannot be resolved any other way.

Mr. McINTYRE. That is correct.

Mr. FASCELL. Which means from a day-to-day standpoint, the working relationship between the Special Representative and the State Department will have to be extremely close.

Mr. McINTYRE. I think it would have to be close with a number of the departments, but certainly the Secretary of State and the Trade Representative will have to work very closely together, as they did during the MTN negotiations.

Mr. FASCELL. What I meant was that they would have to be more than simply arriving at separate policy decisions at top levels and then try to get them resolved. It would have to be staff-level, day-to-day working relationships, or it would be meaningless.

Mr. McINTYRE. That is correct.

Mr. FASCELL. All you have to do is just think about East-Trade or OPEC, trying to give the Special Trade Representative a free hand to deal with the trade policy, and at the same time not take into consideration the present foreign policy problems the United States has. You see what an almost impossible situation the Special Trade Representative would have?

Mr. McINTYRE. Yes; I think they are going to have to work very closely together. But that is not unusual; that happens throughout the Government.

Mr. FASCELL. I understand that. I just want to be sure what the lines of responsibility are for the Special Trade Representative when there is a special foreign policy consideration directly impinging on a policy decision he is about to make and how that is arrived at in a day-to-day working relationship, not some esoteric principle like, "the President will resolve the problem;" that does not mean a thing to me.

Mr. McINTYRE. Many problems are resolved on a day-to-day basis at the staff level or at the Secretary level and never go to the President for resolution.

Mr. FASCELL. They just go to OMB?

Mr. McINTYRE. No; only budgetary issues and major policies that this subcommittee is sometimes interested in.

Mr. FASCELL. The other matter that has been raised time and time again has been the fragmentation of the State Department, what with the decision for agricultural attachés in the Department of Agriculture and now commercial attachés over in the Department of Commerce. How does OMB see that, other than what you have already recommended in this plan?

Mr. McINTYRE. I am sorry. I did not catch the first part of your question.

Mr. FASCELL. The question was, "When have you stopped beating your wife?" [Laughter.]

Mr. McINTYRE. The answer is, "We never started."

Our analysis of the function of the commercial attachés made it clear to us that this function was not essential to the State Department's overall mission in the foreign affairs field, and particularly in the Secretary of State's personal responsibilities to the President in terms of advising him on foreign policy issues.

It was our judgment that the commercial attachés could function better if they were in a direct line with the department that had responsibility for coordination of domestic trade policies and also could provide that link to the foreign markets.

The commercial attachés would still work under the general supervision of the ambassadors in these countries.

Mr. FASCELL. The President's country team directive, which was cleared by you, is still in effect, and the reorganization plan does not change that.

Mr. McINTYRE. That is correct.

Mr. FASCELL. But my question is more basic than that. I would hope that we would not change the country team concept.

Mr. McINTYRE. No, sir.

Mr. FASCELL. The question is: What about economic reporting? What about the respective duties of the economic counselors—the economic section of the embassy—and what the commercial attaché is going to do and whom he is going to do it for?

Mr. McINTYRE. Again, that economic reporting function remains in the State Department. I think the commercial attachés will have to work very closely with the people in the embassies who provide the economic reporting functions, just as the agricultural attachés do.

Mr. FASCELL. Let me ask you this. Does that commercial attaché have one boss, two bosses, or three bosses?

Mr. McINTYRE. The commercial attaché is responsible to the Secretary of Commerce.

Mr. FASCELL. And he is responsible to the ambassador.

Mr. McINTYRE. I am getting to that. That is the primary line of authority. Since that attaché works in the embassy or mission, that attaché would be subject to the overall jurisdiction of the ambassador, just as the agricultural attachés are and just as other personnel who represent other departments of this Government in foreign countries are.

Mr. FASCELL. If the Special Trade Representative has an export promotion policy lead responsibility, according to the plan, the imple-

mentation of that, however, is the direct responsibility of the Department. Is that correct?

Mr. McINTYRE. That is correct.

Mr. FASCELL. And overseas, that would be the responsibility of the commercial attaché. Is that the theory?

Mr. McINTYRE. Yes.

Mr. FASCELL. What other agencies would have the responsibility of carrying out the Special Trade Representative's policy decision on export promotion or trade?

Mr. McINTYRE. First of all, I think we have to make it clear that we are not talking about unilateral decisions. We are a part of a big government, and there are many responsibilities that affect our trade policy and trade negotiations that have to be carried out by other agencies. In the financial area, Eximbank's leading policies have an impact on trade; the same is true in agriculture.

Mr. FASCELL. I understand that, but I think you misjudge which direction I am driving at.

In the Eximbank, the Special Trade Representative is going to be a nonvoting member. He could get that information by telephone or by sending someone over to pick up the material; he does not have to sit to be educated with a nonvoting membership. Sitting on the OPIC—Overseas Private Investment Corporation—Board, which has a direct trade policy investment, he is going to sit there as vice chairman and a voting member.

All I am concerned about is this. You are giving this Trade Representative all of this responsibility, as laid down in this plan, and he is running up against a bulwark of people in other agencies, which is standard, but he has additional and new responsibilities.

Mr. McINTYRE. Yes, and we are going to give him additional personnel to help him carry out those responsibilities.

Mr. FASCELL. I believe you, but I just want to be sure that the authorities outlined in the plan are clear and sufficient.

For example, he is going to lay out the policy on enforcement of antidumping and countervailing, but the Department of Commerce is going to decide whether or not they will actually enforce it. What good is the policy?

Mr. McINTYRE. I think the policy is very good because, if the Department does not follow the policy, then the Trade Representative, being in the Executive Office of the President, can insure that there is something done about that issue.

Mr. FASCELL. OK. The foreign policy aspects of that particular problem have to be fed in at some point in the policy decision being made by the Special Trade Representative. At some point, the foreign policy impact of that decision has to be made.

Once that is done, what is there left for the Department of Commerce to decide, as to whether they are actually going to carry out the enforcement?

Mr. McINTYRE. First of all, the example that you are using—countervailing and antidumping—is a unique, special type case. They involve the adjudicatory responsibilities that the Department will have to carry out.

I think there will be plenty of room for the Department to exercise their responsibilities and some discretion within overall trade policies.



They will be dealing with individual cases and will have to follow up on complaints, investigate those complaints, and make decisions within the overall policies that have been established by the Trade Representative. Obviously, the Congress also has established those policies through legislation.

Mr. FASCELL. Let us pursue one other aspect of this matter, and then I will be through. Mr. Chairman.

I just want to get into the investment responsibility of the Special Trade Representative. He has the policy responsibility, and you put him, as I understand it, on the OPIC Board as a voting member. Is that the extent of overseas investment responsibility that is envisioned by this plan?

The Department of Commerce has some responsibility, and I am talking about the whole concept of export and investment.

Mr. McINTYRE. After consulting a great deal with Members of the Congress, it was our conclusion that to have an effective trade policy, the Trade Representative had to have some link to those agencies that have investment responsibility.

We would expect the Trade Representative to play a role in the development and coordination of U.S. policy on direct investments. He would do this through the representation on those boards you mentioned.

I do not think we can expect the Trade Representative to do the job that those boards were created to do, but I think the Trade Representative's advice, his knowledge of what is going on in other areas that have an impact on investment and financial matters, and his ability to bring information to the members of these boards will help coordinate these policies better and will provide the communications and the linkage that I think are necessary to have a coordinated policy.

Mr. FASCELL. How do you, or OMB, see OPIC at this point in terms of overseas investments? What is its principal function?

Mr. McINTYRE. You ask how OMB sees it. Let me give you a little background on that, and then I will tell you how we see it.

There is a divergence of opinion as to whether OPIC is a development agency or an investment agency. We tried to deal with this issue in the IDCA—International Development Cooperation Agency—reorganization. Our judgment was, based in part on the strong feelings of Members of the House, that we should leave OPIC in IDCA as basically a development agency.

Obviously, OPIC does have a trade focus, too. We, therefore, decided that, in order to provide that linkage, the Trade Representative should be placed on the OPIC board.

Mr. FASCELL. I do not have any objection to that.

Mr. McINTYRE. Good.

Mr. FASCELL. I am glad you finally got around to talking to me about it.

Mr. McINTYRE. Mr. Fascell, I thought we talked to you when we met with Mr. Bingham and others about that issue. I thought you were there that afternoon.

Mr. FASCELL. Maybe you can jog my memory a little.

But why not make the Special Trade Representative the chairman of that board? You would still give it developmental responsibility.

It would not hurt anything. You have already given him a vote so he has the responsibility.

But I think we are going to have to clear up just what OPIC's principal mission should be. I do not see why you cannot just say it is basically an investment operation with developmental responsibility, rather than a developmental organization with investment responsibilities. It may be semantic to some people, but it seems rather important to the business community, and perhaps we ought to get that settled if there is some way to do that.

Mr. McINTYRE. Mr. FASCELL, after reading the amendments to the organic act of OPIC that this Congress passed in 1978, we decided it just was not necessary.

Mr. FASCELL. I did not understand him to say that.

Mr. BROOKS. Do you think that the Special Trade Representative will have sufficient input in that capacity?

Mr. FASCELL. OMB obviously thinks so.

Mr. McINTYRE. Absolutely, Mr. Chairman. We think the Trade Representative, as a representative of the President, being of Cabinet rank, having an office in the Executive Office of the President, certainly will carry the weight and clout that is necessary.

Mr. BROOKS. I think the majority of Members of the Congress and the American people are a lot more interested in developing ways to expand our trade and profitably export our products, and are a lot more interested in perfecting that mechanism than they are the mechanism for giving it away to anybody.

I do not mean to be parochial and narrow-minded; I would like to give away a lot of things if we had plenty; but until we have plenty, I am not for giving away anything. I would rather constrain our methods of giving it away and spend most emphasis on how to make a little net return for Uncle Sugar.

Mr. McINTYRE. Mr. Chairman, we met with Mr. Zablocki's committee, and I think that is when I had the previous conversation with Mr. FASCELL about OPIC and its role.

I think there is a divergence of opinion in the Congress over the role of OPIC. What we have tried to do is abide by the law that you have passed.

Mr. FASCELL. Mr. Chairman, I have just one other question on that point. And then I will be through with riding this horse that has worked up such a lather.

One of the problems is that the vice chairman under this plan is of Cabinet rank and the chairman of this board is not.

Given the fact that already under the circumstances of this plan the Special Trade Representative had better get himself a better ball bat. He is going to need everything he can get in order to carry out his job. This is just one more little thing that gets in the way.

Thank you, Mr. Chairman.

Mr. BROOKS. Mr. Stangeland, the gentleman from Minnesota.

Mr. STANGELAND. Thank you, Mr. Chairman.

Mr. McIntyre, does the present Special Trade Representative hold Cabinet rank?

Mr. McINTYRE. Yes.

Mr. STANGELAND. On page 11 of your testimony dealing with commodity policy, it says that "The Trade Representative will coordinate U.S. Government commodity policies in the international arena. These responsibilities now reside with the Department of State, which share them on agricultural commodities with the Department of Agriculture."

On agricultural commodity policy, will the Department of Agriculture have the same input under this plan as they have presently with the Department of State, and will the Department of State still participate in agricultural policies with the Special Trade Representative?

Mr. McINTYRE. Yes; Agriculture will have the same type of relationship and input, and the State Department will also have a role to play by providing input and information to the Trade Representative in this area.

Mr. STANGELAND. Do you visualize some diminution of State's authority in agricultural policies, or do you see much the same role as presently exists?

Mr. McINTYRE. The Trade Representative will be given the responsibility for negotiation—trade negotiation. That is clear. However, the State Department will continue to have people on its staff developing information that will be essential for any type of commodity negotiations. These people will support the Trade Representative in carrying out his responsibilities in this area.

In addition to that, as I said earlier, I would envision one of two approaches being taken: One, there would be a team approach in which representatives from the Agriculture Department, the State Department, and the Office of the Trade Representative would work together. In other areas, I could see where the Trade Representative would delegate his responsibilities, perhaps, to individual departments to carry on some of these negotiations.

Let me make it clear that the Trade Representative is the individual who will be accountable for trade negotiation.

Mr. STANGELAND. Could we assume, under this new setup, that the Department of Agriculture would play a stronger role than they presently play?

Mr. McINTYRE. It is hard to say. Stronger relative to what? They play an important and a significant role now. I think they will play an important and significant role under the reorganization.

Mr. STANGELAND. In the last round of negotiations, they played a more significant role than they have been allowed to play in past negotiating rounds. I am just concerned that Agriculture keep a strong role in agricultural commodity policies.

Mr. McINTYRE. What we are doing is building on that experience that we developed in the MTN negotiations. So, I think that those types of relationships that were developed in the process of negotiating the MTN agreement will be fostered in this new organizational arrangement.

Mr. STANGELAND. OK.

On page 15 of your testimony when you talk about the operational focus of the Department of Commerce, you say, "The plan will make the Department of Commerce the operational focus for the adminis-

tration of laws and programs affecting nonagricultural imports and exports."

Who has the operational focus for the administration of laws and programs affecting agricultural imports and exports?

Mr. McINTYRE. The Agriculture Department.

Mr. STANGELAND. The Agriculture Department would have that?

Mr. McINTYRE. That is correct.

Mr. STANGELAND. I have one last question.

Dealing with the question of commercial and agricultural attachés in an embassy or a mission, would it be possible to have both a commercial and agricultural attaché? If so—and I consider agriculture to be commerce—is there a clear line of division of responsibilities for those two attachés, or is there a possibility of some problems? What is the line of authority there? Does the agricultural attaché work directly with the ambassador and then with the Department of Agriculture, or does he have to go through the commercial attaché?

Mr. McINTYRE. There will be agricultural attachés and commercial attachés in embassies and missions. I do not think there will be any problem; there is no problem now in those areas where we have agricultural attachés and commercial attachés. I do not see why this organizational change would create any problems in those areas.

Mr. STANGELAND. I guess my question is not so much in regard to the concern that this program could create a problem; I am just curious as to the present and future relationship in that situation.

Mr. McINTYRE. The relationships would basically be the same except that the commercial attachés would now be responsible to the Secretary of Commerce instead of the Secretary of State.

Mr. STANGELAND. I am also interested and concerned, as the chairman and Mr. Horton are, in the staffing. I see now that the Special Trade Representative will have a small staff permanently in Geneva.

What is going to be required, as far as personnel are concerned, with this new reorganization plan? How many additional personnel are we going to need to do the job properly?

Mr. McINTYRE. We will try to get as much of that information as we can, as definitively as we can. We will certainly give you some ballpark figures and parameters so that the chairman can get this plan through the Congress.

Mr. STANGELAND. Thank you very much.

I have no other questions, Mr. Chairman.

Mr. BROOKS. Thank you very much.

The gentleman from Georgia, Mr. Levitas.

Mr. LEVITAS. Thank you, Mr. Chairman.

Mr. McIntyre, just to save a lot of time, I would like to say that the points and the line of questioning pursued by my colleague, Mr. Fascell, almost identically represent my point of view, and I will not go over the same ground that he did, except to say that I associate myself with the points and the thrust of his position.

I want to commend you for the reorganization plan, at least in certain particulars. Clearly, you have taken into account the results of the last hearings we had on this matter, and your plan, at least insofar as the Department of Commerce is concerned, I think, responds to several reports issued by this subcommittee on those specific problems. I

think it will lead to great improvement in the implementation of trade policy in the actual trenches abroad.

My major concern—and I do have a fundamental concern with this plan—is the feeling that we are still dividing policy from implementation of policy, with all the attendant consequences that policymakers have in formulating policy but leaving it to somebody else who has the responsibility for carrying it out.

What I see happening here is this: You are, in effect, proposing the creation or the establishment of a two-headed Cabinet department, one called the U.S. Trade Representative and the other called the Secretary of Commerce. They are both dealing in the same subject matter, but one has the fun of making all these macropolicy decisions, and the other head of that Department is going to be charged with the responsibility of implementing them. I just do not think that is going to work. I think we need to bring them all together rather than fragment them in that way.

Mr. McINTYRE. Mr. Levitas, this is an issue that we have studied very seriously; it is not something we have taken lightly in putting this plan together.

Let me make several points. First of all, there is a precedent for this type of structure called the National Security Council. That organization, basically, provides the overall policy framework on national security issues, and they are executed by various departments such as Defense, State, Treasury, and others.

It was our judgment that it would be virtually impossible to create a department or an agency that could encompass all the multifaceted trade interests that currently exist in the Federal Government. Even if we were to put a large percentage of those interests in a department, we have found—and I know you know this to be true—that it is just unrealistic to expect one's peers to be able to hammer out and negotiate consensuses.

So, we felt it was important that the trade policy be developed in the Executive Office of the President by an individual who represents the President, speaks for the President, and has the final say-so on trade policy.

Mr. LEVITAS. Let me interrupt you at that point, if I may. I do not want to break your train of thought. But one of the things I keep hearing is that trade policy is so important that you need someone in the Executive Office of the President who speaks for the President and has access to the President. I thought that was what a Secretary of a department would do—speak for the President and have access to the President.

Do people in the Executive Office of the President speak for the President more so, say, than the Secretary of State or the Secretary of Commerce?

Mr. McINTYRE. You have anticipated the third point I was going to make.

Building on my first point about the multiple interests in trade matters, it was our judgment that these multiple interests require a neutral broker. The neutral broker, in our judgment, has to be located in the Executive Office of the President.

Certainly, a Cabinet officer speaks for the President; certainly, a Cabinet officer has access to the President. But somewhere, someone

needs to be able to listen to the multiple interests of the various departments and agencies that have an interest in the various trade functions of our Government and come to a conclusion on what our policy should be; if that is unacceptable to a particular Secretary, then that Secretary has the right of appeal to the President. We have found that that is the best process in the executive branch to deal with these types of multiple interests. It works in the budget process; it works in the National Security Council; and I think it will work in this case. In fact, I think it is the most desirable way to deal with the resolution of these multiple interests.

Mr. LEVITAS. Was consideration given, in formulating this plan, to placing all responsibility for nonagricultural, commerce, and trade policy in the Department of Commerce and, in effect, strengthening and enhancing the role of the Department of Commerce, rather than continuing this fragmentation?

Mr. McINTYRE. We considered the option of a Department in the Government that would have trade responsibilities—yes.

Mr. LEVITAS. The linkage, in the plan, as I see it between the U.S. Trade Representative and the Department of Commerce primarily, but also among other agencies and departments in the Government, is this Trade Policy Committee. I would like to talk about that for just a couple of minutes.

The membership of this Trade Policy Committee, which will have the overall responsibility for formulating trade policy, will be the Trade Representative, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Energy, the Director of OMB, the Chairman of the Council of Economic Advisers, the Assistant to the President for National Security Affairs, and the Director of the U.S. International Development Cooperation Agency. That sounds like the Cabinet. Whom did we leave out?

Mr. McINTYRE. It is the Cabinet, plus.

Mr. LEVITAS. What happened to Neil Goldschmidt? Why did he get left out of this?

Mr. McINTYRE. I cannot tell you.

Mr. LEVITAS. Is not transportation an integral part of it? You were talking about shipping, rail—

Mr. McINTYRE. Shipping is with the Maritime Administration, which is in the Department of Commerce.

Mr. LEVITAS. All right. You are going to reorganize that pretty soon, are you not?

Mr. McINTYRE. We have not recommended any reorganization.

Mr. LEVITAS. You are talking about air transportation; you are talking about domestic rail transportation. You have the Adviser on National Security Affairs.

Mr. McINTYRE. For the foreign policy implications of our trade policy, that is correct. The HEW Secretary is also not on it.

Mr. LEVITAS. I can understand that. I will accept that.

Mr. McINTYRE. Excuse me—also the Secretary of Education.

Mr. LEVITAS. The Secretary of Health and Welfare.

Mr. McINTYRE. Health and Human Services.

Mr. LEVITAS. My point is that I do not understand why you have eliminated the Secretary of Transportation.

But the other thing that concerns me is this. And I do not mean to be cynical or pessimistic. If this Trade Policy Committee is created and next year at this time we have oversight hearings, I dare say that you will report that there has been one meeting—maybe—of this Policy Committee with those people there. This looks like an invitation for letting staff set trade policy. I do not see these people getting together and studying trade policy; I do not see this Policy Committee meeting. That has been the experience in the past with other similar organizations.

How many times has the Council on Wage and Price Stability—not the people who work there but the very impressive group of members of the Council—met?

Mr. MCINTYRE. Very seldom.

We would envision this committee working to advise the Trade Representative on trade policy issues. It worked quite well during the MTN. In fact, that is what this is based on. These people, with a few exceptions, are basically the same members that functioned on the committee as the MTN was being negotiated.

Mr. LEVITAS. But in the case of MTN, you had a single mission that had high priority, that demanded a focus of attention at the highest level by the people you are talking about on this committee.

In the ongoing and routine development of important trade policy, what I am suggesting is that the existence of a committee of this sort is going to, necessarily, be turned over to operating staff and the formulation of policy will not—

Mr. MCINTYRE. That is the error in your line of thinking. This committee does not formulate policy; this is an advisory committee to the Trade Representative, and the Trade Representative is responsible for trade policy. It is specifically so designed because of the questions that were raised in our discussions with the Congress about the role of this committee.

The staff, in this type of situation, will not be dictating trade policy. That is the responsibility of the Trade Representative.

Mr. LEVITAS. OK.

Let me get back to the question that is really bothering me most basically. One of the things that this whole reformulation deals with is how can we improve our foreign trade? That is the bottom line. There are some other involvements—the CVD—countervailing duty—the monitoring of the MTN, and all of that. That is all very important, but what we are really trying to accomplish is a greater share of gross national product derived from foreign trade.

That responsibility, as I see it, lies with the Department of Commerce. Is that the way you see it?

Mr. MCINTYRE. I am sorry I missed your question. Would you please repeat it?

Mr. LEVITAS. The development—the actual nuts and bolts of how we get the widget manufacturer in Wichita, Kans., a medium-sized business, to be able to find out there are export opportunities and get those widgets on the market in Germany or wherever—that responsibility will lie with the Department of Commerce?

Mr. McINTYRE. That is correct.

Mr. LEVITAS. OK.

Hopefully, the Department of Commerce will substantially improve its outreach ability in the regional offices where they are not doing a very good job today and transmit that to the people in the embassy at Bonn, and somebody over there will get an effective program, not a "Mickey Mouse" program, of trade leads, and it will come back.

All of that is an implementation—as I see it—of the trade policy which the Trade Representative is going to be establishing.

When something goes awry, whose responsibility is it? Whom do we call?

Mr. McINTYRE. It depends on what your problem is. If your problem is that you do not think your constituents who want to get into export markets are being served properly, then you ought to call the Secretary of Commerce. If you think the U.S. trade policy is incorrect, you ought to call the Trade Representative.

I think it depends on the issue.

Mr. LEVITAS. Can trade policy, as formulated by the U.S. Trade Representative, be meaningfully formulated, not abstractly with a lot of economic theories but realistically, without a "hands-on" involvement in the implementation of that policy—the feedback, the understanding of what really happens, not in those great negotiations that occur in Geneva, Tokyo, and other places, but what is actually happening in terms of implementing them?

Mr. McINTYRE. One of the responsibilities of the Trade Representative is to look at what is actually going on—what laws we have that might have some impact on our trade position—and to look at ways we can improve the administration of our trade policy.

I think the Trade Representative can develop good policies under those types of circumstances. But you also have to remember that the Trade Representative will be calling upon and using resources and information developed by the agencies that do have the "hands-on" experience. We have to keep that in mind.

If what you are suggesting is that we need a super agency to combine all the trade functions in this Government, Mr. Levitas, I think we have already seen what happens when we try to have super agencies and give them responsibility for everything.

I think that where we can establish a Government policy, and where we can have accountability for the implementation of that policy, we see that type of process and structure work better than where it was all put into one big agency with one huge bureaucracy.

Mr. LEVITAS. I understand that. I still get the sense—and this may be a legitimate reason—that the reason this type of structure is being proposed rather than making the Department of Commerce the Department of Commerce and Trade is that, pragmatically, the STR, as you say in your testimony, is a unit that has proven itself in the policy and negotiating arenas and has won the confidence of a substantial majority of the private sector and, of course, of foreign governments as well. I think it is basically this pragmatic decision which has prevailed, rather than the idea that there should be a Cabinet-level agency dealing with commerce and trade, without the fragmentation.



What I think is going to happen after the very able people such as Mr. Strauss and Mr. Askew and yourself and Ms. Kreps are no longer there is that you are going to find out there is fragmentation, and there is going to be a great deal of slippage between policy and implementation. As Mr. Fascell points out, with the new responsibilities that are being given to the Trade Representatives, you are going to find out that he is going to have to spend half of his time butting up against three or four other bureaucracies rather than having control over them. But that, I suppose, is what we have to be addressing in the next few days, Mr. Chairman.

Mr. McINTYRE. I would like to make just two points in answer to that observation, Mr. Levitas.

First, you are going to inevitably have conflicts among those agencies that have trade responsibilities because you are not going to be able to take away, for example, the foreign policy aspects of international trade. They are going to have to be in State; someone is going to have to try to take all these divergent points of view and listen to them and come up with a trade policy.

Second, I do not think you could have a Cabinet Secretary who could exercise the role of a neutral broker that we would envision the Trade Representative exercising, developing and enunciating trade policy, and conducting trade negotiations.

Mr. Brooks. Thank you very much, Mr. Levitas.

There is one last point I would like to suggest to you, Mr. McIntyre. That is that you consider OPIC and consider the possibility of putting it into the Commerce Department where you would have an option as to who the chairman would be. You are already making the STR vice chairman; you could have the Commerce as chairman, or you could have the STR as chairman. It would give you a little flexibility there. OPIC's primary responsibility, then, would not be straight development, but they would have development along with an investment capability. They would not be in the "giving it away" detail full time.

Would you take a look at that? I suggest you look at it between now and Thursday.

Mr. McINTYRE. Mr. Chairman, I will look at it. I would remind you that we have just reorganized OPIC.

Mr. Brooks. I understand. But we did not have this program going at that time.

Mr. McINTYRE. We knew it was coming down the pike.

Mr. Brooks. We did not know it. We did not have it all laid out. When you put IDCA together, it was a logical thing to do—I agree. But now that you have this reorganization, it might be more logical to put it in commerce.

You know what they say about consistency. They say it is a hobgoblin of little minds. We can change; it does not have to be that way.

I now want to recognize the distinguished member of the full committee, Hon. Paul McCloskey, the distinguished Member from California, who has independent and outstanding views on a variety of subjects. I would like to recognize him now for his comments.

Mr. McCloskey. Thank you, Mr. Chairman. Mr. McIntyre, I came over from the Merchant Marine Committee hearings this morning, be-

cause of this trade reorganization plan. I want to commend you on it. It seems to me have the right thrust and the direction.

But you spoke of section 301 of the Trade Act. I want to read you subsection D(2).

Upon complaint filed by an interested party with the Special Representative for Trade Negotiations, alleging any such restriction, act, policy, or practice that is discriminatory by a foreign government, the Special Representative shall conduct a review of the alleged restriction, act, policy, or practice and at the request of the complainant shall conduct public hearings thereon.

With respect to section 301 of the Trade Act and this effort to upgrade the Secretary of Commerce to handle trade policy, I wonder why you have not upgraded the maritime policy which also falls under the Secretary of Commerce and the Assistant Secretary of Maritime Affairs who, of late, has had the same problems that U.S. exporters have had with foreign discrimination. Presently there is no real means for an American shipping company to complain of a discriminatory practice under section 301. To date, the Special Trade Representative has never considered the word "practice" under section 301 as testifying his intervention on behalf of an American shipping company.

Did you consider this problem in the reorganization plan?

Mr. McINTYRE. We gave some consideration to the area of maritime policy. Our initial decision was that, while maritime policy certainly is trade-related, it is not so much trade-related that it should be given some special status outside of its current status in the Department of Commerce.

Mr. McCLOSKEY. Let me quote to you from the President's message. I tried to do this in a letter to you last Friday so that you would be prepared on this point. In the trade reorganization bill, the President's message said this:

Current arrangements lack a central authority capable of planning a coherent trade strategy and assuring its vigorous implementation.

On July 25, the President wrote the Merchant Marine Committee, and he said in almost identical words:

Perhaps most importantly, the Federal Government itself must begin to address maritime problems in a more unified and coherent way.

Mr. McIntyre, if we must address maritime problems in a more unified and coherent way, if that is the President's direction, that means that somewhere in the Commerce Department it is not being addressed in a coherent and unified way. Perhaps I can remind you of why it is not; it is because the Federal Maritime Commission is conducting foreign negotiations. We have seen Chairman Bakke go to Russia; we have seen Chairman Daschbach deal with the Koreans. Surely, if we are to have a unified and coherent maritime policy, the ideal place for it is in the Office of the Special Trade Representative.

I ask that question with reason. In July and August, after we got the President's message, the staff of the Merchant Marine Committee approached the staff of OMB and said:

What can we do in this reorganization to achieve a coherent maritime policy? The President has said that the Assistant Secretary for Maritime Affairs will be his primary spokesman, yet today he has no means to protect an American shipping company against foreign discrimination.

Mr. McINTYRE. My understanding, Mr. McCloskey, is that some of those problems that you have raised about dealing with maritime policy under section 301 were addressed in the agreements that this Congress approved.

You may want to pursue this with the Special Trade Representative.

Mr. McCLOSKEY. The 1979 Trade Agreements Act?

Mr. McINTYRE. My understanding is that section 301 was amended to permit the Trade Representative to consider and deal with maritime issues. You may want to explore that further with him.

Mr. McCLOSKEY. Do you feel he should? Do you envision in this reorganization that the Special Trade Representative now has the maritime responsibility?

Mr. McINTYRE. To the extent that the statute gives him that authority under section 301.

Mr. McCLOSKEY. What reason is there for them to continue the Federal Maritime Commission as the negotiator?

Mr. McINTYRE. The current statutes give the Maritime Commission some widespread authority for regulation.

Mr. McCLOSKEY. Regulation, yes; but what about negotiation with foreign governments?

Mr. McINTYRE. I am not familiar with the types of negotiation the Maritime Commission conducts with foreign governments. I would suggest that you ask the Trade Representative.

Mr. McCLOSKEY. Am I correct that, as part of this reorganization, you are trying to upgrade what is commonly referred to as the "sick person of the Cabinet"—the Secretary of Commerce?

Mr. McINTYRE. I have not referred to the Commerce Secretary as the "sick person of the Cabinet."

Mr. McCLOSKEY. I do not mean to be condemning Mrs. Kreps in any way; this was long before her time when this designation was created—that the Cabinet Secretary of Commerce had very little power and some responsibility. But this is clearly upgrading the Secretary of Commerce, is it not?

Mr. McINTYRE. I think it is upgrading the Department of Commerce, certainly. It is giving a department in this Government primary responsibility for trade issues. I think that is important.

Mr. McCLOSKEY. Ninety-five percent of our trade is carried on ships. That makes the cohesion of our maritime policy a responsibility of the Secretary of Commerce. I am trying to find out if you even address the maritime problems in this reorganization.

Mr. McINTYRE. As I said, we looked at some of the areas of maritime policy. The President's statement, as I recall, said that the Maritime Administration would serve as the lead spokesman on maritime matters. This administration is in the Department of Commerce. The Secretary of Commerce fully participates in the establishment of trade policy as well as a member of the Trade Policy Committee. We think that linkage is sufficient.

Mr. McCLOSKEY. The one thing I do not think is sufficient—and I am quoting the President—is this. He said:

Perhaps most importantly the Federal Government itself must begin to address maritime problems in a more unified and coherent way.

Have you addressed that point?

**Mr. McINTYRE.** No; not in this proposal.

**Mr. McCLOSKEY.** That is a fair answer. If you have not, my concern is, how do we?

**Mr. McINTYRE.** We are looking at trade policy.

**Mr. McCLOSKEY.** But you know, 95 percent of our trade is carried on ships, is it not?

**Mr. McINTYRE.** Yes; but there are a lot of other issues involved in the maritime area than just trade policy: the regulation issue, the subsidization of the construction of various types of ships, and so on. There were references in the President's statement to dry bulk carriers. We are trying to help promote some growth in that area in this country. There are many other issues involved in maritime policy than just trade.

**Mr. McCLOSKEY.** I appreciate that, but in view of the 1979 Trade Act amendment which does give the STR some responsibility—and, as I say, I quote only the President when he refers to the fact that with State, Commerce, Treasury, and the Defense Department all involved with the FMC, an independent agency in international negotiations—clearly, there is need for a more coherent policy.

I just want to—if I can—hold your feet to the fire a little and hope that we will get the same kind of reorganization policy on maritime that you brought forward on trade. As I said, I think the trade proposal is appropriate; I am just sorry it did not extend to maritime as well because you have the same problem.

**Mr. McINTYRE.** I would just reemphasize the one point I made about the fact that the Maritime Administration has a link to the development of trade policy through the Secretary of Commerce. I would expect that if there are serious trade implications in the Maritime Administration's areas of responsibility, those could be focused through the Secretary of Commerce at the Trade Policy Committee's deliberations and be dealt with there.

**Mr. McCLOSKEY.** Thank you.

Thank you, Mr. Chairman, for the courtesy.

**Mr. BROOKS.** I want to thank you very much, Mr. McCloskey, and I hope this bodes well for our maritime development because I am mightily concerned with that, myself.

**Mr. McCLOSKEY.** Maybe we should ask the witness: You are not going to come up with cargo preference again, are you, as a means of enhancing trade policy?

**Mr. McINTYRE.** I am not aware of any such proposal.

**Mr. McCLOSKEY.** I think it was only the Secretary of Commerce in the President's Cabinet that proposed cargo preference 2 years ago. Mrs. Kreps may correct me if I am wrong, but I thought the other Cabinet Secretaries all disagreed with her on cargo preference.

**Mr. BROOKS.** Thank you very much.

Thank you, Harrison; thank you, Eric. It is nice to see you all again.

Our next witness is the Secretary of Commerce, Mrs. Juanita Kreps, whose charm is exceeded only by her competence and capability.

**Mrs. KREPS.** Thank you, Mr. Chairman.

**Mr. BROOKS.** She is a respected member of the economics faculty at Duke University, where she served as professor, assistant provost, and vice president. She has been Secretary of Commerce since January 20, 1977.

Although she has, regretfully for us, submitted her resignation to the President, we were particularly anxious that she come in and testify since she has led the planning for this major restructuring of the Department of Commerce.

She is accompanied by Homer Moyer, Jr., counselor, who has been with the Department since April 1976 after coming from private practice.

Where did you practice, Mr. Moyer?

Mr. MOYER. With a firm here in Washington.

Mr. BROOKS. We welcome you here today and look forward to your testimony. You may summarize your statement if you would like, or proceed in any manner that you see fit.

**STATEMENT OF JUANITA M. KREPS, SECRETARY, DEPARTMENT OF COMMERCE; ACCOMPANIED BY HOMER MOYER, JR., COUNSEL**

Mrs. KREBS. Thank you, Mr. Chairman.

In view of the time, I shall be fairly brief in summary, but I am submitting a longer statement for the record.

Mr. BROOKS. Without objection, it will be included in the record.

Mrs. KREBS. It is a pleasure for me to be here to share with you our plans for what we hope will be a very successful implementation of the administration's trade reorganization proposal.

We in the Commerce Department have given this issue top priority for many months and we believe that we have been able, working with OMB and the STR, to develop a plan under which the Department of Commerce will contribute significantly to the primary goal of trade reorganization. That is, the goal of providing an improved capacity to strengthen the export performance and the import competitiveness of American goods and services.

We find ourselves, as you have noted, in a new era in trade relationships. The successful implementation of the Tokyo round trade agreements will move us forward to even greater integration with the world economy. The MTN will offer us new opportunities, but we shall have to work at maximizing the benefits to our economy, particularly because global competition is expected to intensify in the eighties.

In the decade ahead, many less-developed countries will become stronger exporters of consumer goods and midlevel technology products. This will increase U.S. imports, and it will also push the industrialized nations more heavily into the production of capital goods and higher technology exports. The U.S. export position will be challenged more directly than ever before. Increased competition, coupled with more open markets, will have a profound effect on our economy and our growth. International trade will become one of the major factors affecting the performance of U.S. industry. Some industries will prosper while others will falter in the face of increased competition. Therefore, how we deal with trade growth will materially affect all Americans.

There is a great deal that we can and must do. What is called for is nothing less than a complete reorientation of our thinking on trade. We have traditionally treated international economic policies, domestic economic policies, export development policies, and policies affecting individual industries as though they were unrelated. Today, world trade has become too important to the health and growth of the Amer-

ican economy to be treated as a separate and somewhat peripheral issue.

Reorienting our thinking on trade policy is not easy. But if the eighties are to be different, we must make at least three fundamental changes.

First: We must elevate the priority of trade in the hierarchy of our national objectives. We must follow the lead of our successful competitors and always keep before us the question—"How will this affect our trade?"—when we consider tax policies, investment policies, antitrust actions, environmental and regulatory actions, and all the other policies that have a fundamental effect on international competitiveness. Bringing this about will be neither easy nor inexpensive. Some vested interests and some domestic priorities will need to move over to make room for enlarged importance of trade.

Second: We have to link our trade policies more closely to domestic policies affecting industry. We have to recognize that our competitiveness depends on far more than what we do at the border; that we can improve our competitive position only if we improve our technology and our pace of innovation, our investment in plants and equipment and, hence, our productivity. Our trade policy thinking must reflect the fact that trade problems are industry problems. Our failure to address them as such is partly responsible for our inability to deal with the trade challenges of the past two decades.

Third: Many businesses need to reorient their thinking, for many businesses, and Government too, have focused their energies on the domestic economy. Too often, import competition has been taken lightly and export markets have been ignored. But we are no longer an insulated, self-sufficient continental economy, and we must not continue to act as if we were.

With the increased openness of markets resulting from the multilateral trade negotiations and increased competition in the eighties, U.S. business will have to find more of its sales growth in foreign markets.

The Government can help, particularly by removing obstacles and disincentives to increased export efforts. The Department of Commerce will be devoting increased attention to identifying obstacles to export expansion, calling them to interagency attention, and searching for ways to remove them. The Government can also increase its efforts to help business locate and exploit export opportunities, to insure adequate export financing, and to obtain fair and open access to foreign markets.

For our part, reorganization of the trade functions with Government is the vital first step in improving the export performance and import competitiveness of American goods and services. If the reorganization is to be successful, trade responsibilities of Government must be centralized and streamlined.

I shall omit, Mr. Chairman, describing for the subcommittee the proposed structure and division of responsibilities. A brief description is included in the full text, which has been submitted.

In addition, the detailed departmental reorganization plan has been submitted.

I would like, however, to comment briefly on that part of the plan providing for improved industrial analysis.

Increasing the vitality of domestic industry is the only way to meet international competition. A wide variety of Commerce and other agency programs are directed toward this objective. However, there is a compelling need for the Federal Government to develop a stronger and more comprehensive industrial analysis capability.

The Department will be taking several steps to strengthen its resources devoted to industrial analysis. The cornerstone of this upgraded capability will be the new Bureau of Industrial Analysis. Located in the Chief Economist's Office, it will be modeled after our highly regarded Bureau of Economic Analysis and will provide upgraded and highly professional industry analysis to serve the needs of government policymakers and industry.

In summary, Mr. Chairman, by consolidating trade operational responsibilities in the Department of Commerce and upgrading our sectoral analysis capability, the administration's trade reorganization plan draws upon a major departmental strength—the ability to link trade to policies affecting domestic industries. Trade problems are industry problems, and until we address them as such we cannot expect a fundamental improvement in our trade performance.

To meet the challenge of the eighties, we must coordinate our efforts in such a way as to gain maximum advantage from the MTN, and adopt measures that will help U.S. industries to increase their competitiveness.

The reorganization provides the essential ingredients: a higher Government-wide priority on trade; concentration of nonagricultural trade implementation responsibilities in one department; clearer channels for future trade policy decisions; and a heightened attention to the analysis and solution of the problems facing U.S. industry.

The reorganization will result in a considerably strengthened Department of Commerce—one well equipped to monitor and enforce trade rules in a manner which will protect U.S. rights while insuring that U.S. obligations are carried out; and one better equipped to promote, foster, and develop the foreign trade of the United States.

Thank you, Mr. Chairman.

Mr. BROOKS. I want to thank you very much, Madam Secretary, for a very excellent statement. I enjoyed it; I agree with it; I think it is a fine statement; it certainly is a blueprint for progress for American industry and products as they relate to our foreign trade.

I have a couple of questions I would like to go over with you.

The plan calls for the transfer of trade promotion and commercial functions performed in full-time overseas positions. Do you know how many positions will be transferred to Commerce? Could you give us, for the record, a list of those countries affected by these transfers?

Mrs. KREPS. We will provide that for the record.

We are, as you know, transferring all full-time commercial officers.

Mr. BROOKS. We will need that for the record by Thursday. I have the list here, but they need to clear it with OMB. I am sure you can get that resolved.

Mrs. KREPS. Yes, sir.

Mr. BROOKS. Without objection, it will appear in the record at this point.

[The material follows:]

**QUESTION:** Under the reorganization plan, all full-time commercial representation positions are to be transferred from State to Commerce. In which countries are these positions located?

**ANSWER:** The countries in which the 162 commercial positions are located are listed below. There may be a few variations (principally where political considerations override commercial considerations) in the final list of locations where Commerce officers are posted when the reorganization takes effect.

Canada	Colombia	Finland
Japan	Singapore	Dominican Republic
West Germany	Indonesia	Portugal
United Kingdom	Ecuador	Costa Rica
Mexico	Israel	El Salvador
France	Egypt	Iraq
Brazil	Norway	Honduras
Venezuela	Chile	Bolivia
Italy	Greece	Morocco
Saudi Arabia	Turkey	Zaire
Australia	Thailand	Ivory Coast
Netherlands	Peru	Uruguay
Belgium/Luxem.	Yugoslavia	Liberia
Korea	Malaysia	Ghana
Switzerland	Denmark	Iran
Spain	U.A.E.	Kenya
Argentina	Austria	Nicaragua
Hong Kong	Panama	Czechoslovakia
Nigeria	Guatemala	Hungary
Sweden	New Zealand	Poland
India	Algeria	Romania
South Africa	Pakistan	USSR



Mr. BROOKS. What will be the criteria used for determining which new posts in overseas countries will be assigned commercial attachés?

Mrs. KREPS. Within the overall constraints of the total number available to us, we will make the decisions how to allocate them on the basis of our best estimate, in general, of what the market potential of the different countries is and what the industry needs are in meeting that potential.

The basis, in turn, on which we would estimate those two functions is the question of the requests for information that we get for overseas trade, the total present U.S. commercial representation in those countries, total manufacturing exports, and other criteria of that sort.

Mr. BROOKS. What relationship will the commercial attachés have to the American Ambassador, and will the Ambassador be involved in developing markets for American goods and services?

Mrs. KREPS. As Mr. McIntyre explained, the commercial attachés will have a reporting responsibility to the Ambassadors. They will, of course, be hired by us and trained by us. But within the mission overseas, there will be a close working relationship between the commercial attaché and the Ambassador.

To turn to the second part of your question, we would expect the Ambassador to continue his commercial operations abroad and to give us the resources and his efforts in that regard.

Mr. BROOKS. What do you intend to do to insure that the commercial officers of the Department of Commerce are responsive to the lead role of the Ambassador as chief of mission for the United States?

Mrs. KREPS. The staffing patterns and position description, the organizational structures within the missions, will continue to provide that this reporting responsibility will hold.

Mr. BROOKS. And the reporting that you have already mentioned.

Mrs. KREPS. Right.

Mr. BROOKS. The commercial attachés of the Foreign Service now consider themselves as part of a rather special corps. How do you expect those who will be performing trade promotion and commercial functions for the Commerce Department overseas to perform these goals?

Mrs. KREPS. Is the question how we would organize them?

Mr. BROOKS. Yes. How do you expect to organize those that will be from the Foreign Service if they are going to be performing trade promotion and commercial functions for the Commerce Department? Are you going to have an indoctrination for them? Are you going to have a little visit with them? Are you going to explain to them that they are getting out of their striped suits and into their working clothes?

Mrs. KREPS. These are very professional people. We would expect them to make the decisions about the striped suits, but we would indeed do a training and indoctrination, if you would, on the commercial aspects of their posts. They are not unfamiliar with that but their different responsibility to the Secretary of Commerce would have to be laid out in some detail.

Mr. BROOKS. And you are going to work on their personnel system so that their benefits are commensurate with those of the Commerce Department and the State Department when they are performing the

same function there? You may have to take a look at that because bureaucrats are very sensitive about those arrangements.

Mrs. KREPS. Yes.

I think we have come to a satisfactory resolution of that. Perhaps I could ask Mr. Moyer to speak to that for just a moment?

Mr. BROOKS. Mr. Moyer?

Mr. MOYER. Mr. Chairman, we have reached agreement with the State Department on a number of the issues you raised, including the question of privileges and benefits. Under the new Foreign Commercial Service, those privileges and benefits will be equivalent, from the question of diplomatic passports through all of the administrative questions, so that a transfer from the Foreign Service and the State Department to the Foreign Commercial Service would not entail any penalty in terms of those benefits.

Mr. BROOKS. Mr. Moyer, will the commercial officers who move from State to Commerce be given an opportunity to return to State if they desire? If 162 positions, roughly, are eliminated from State, will that not greatly limit the ability of State's capacity to accept the return of those officers?

Mrs. KREPS. They will be allowed that privilege, Mr. Chairman. There are 162 positions, as you indicate.

It is not our thought that this would create a difficulty for the State Department because they would be phased in over a transition period of several years as their jobs wind down. Therefore, we would expect the State personnel system to be able to absorb them in this gradual fashion.

Mr. BROOKS. Would you provide for the record any projection you have made on attrition—projected attrition—of the personnel involved?

Mrs. KREPS. Yes, sir.

Mr. BROOKS. Without objection, it will appear in the record at this point.

[The material follows:]

Attrition QuestionAnswer

Under the Reorganization Plan No. 3 and the Memorandum of Understanding between State and Commerce, approximately 162 Foreign Service Commercial and Trade Promotion positions will be transferred to the Department of Commerce.

Of these 162 positions, 30 are currently filled by Department of Commerce employees serving at overseas missions, or are vacant. It is the remainder, or roughly 130 Foreign Service Officers of the Department of State who are the focus of the attrition question.

Sixty of these 130 Foreign Service Officers are eligible for reassignment in calendar year 1980. The agreement between The Departments of Commerce and State directly addressed this issue in the following ways:

In the interests of sound management, however, the Department of Commerce agrees that all such occupants of these positions may complete their scheduled tours of duty. In its discretion, Commerce may offer Foreign Service Officers in such positions additional FCS tours after completion of present assignments.

To facilitate this transition, Commerce will accept details by State into FCS positions of a minimum of 105 State Department Foreign Service Officers from the Economic/Commercial cone in the first year of the Service's existence, a minimum of 90 officers in the second year, a minimum of 75 in the third year, and 60 in the fourth year. Included in accounting for these positions will be any State Department Foreign Service Officers who permanently join the Foreign Commercial Service. Commerce will establish mutually agreeable procedures governing conversion to the FCS of those Foreign Service Officers who wish to do so.

The existing exchange agreement will continue in force, and efforts will be made to carry it out on a reciprocal basis.

In the fourth year, the two agencies will evaluate their experience under the Memorandum of Understanding and the Exchange Agreement and develop arrangements for ongoing exchanges at all levels on a mutually-agreed, reciprocal basis.

The 60 Foreign Service Officers whose current tours of duty are completed in 1980 will have various options: (1) routine reassignment to another position in the Department of State; (2) an assignment on detail to an FCS position at an overseas mission or to the Department of Commerce in Washington, D.C.; or (3) transfer to the Department of Commerce. The same pattern would exist during the next four years. Foreign Service Officers of the State Department will be encouraged by the Department to broaden their experiences with details to the Department of Commerce, domestically and overseas.

It is contemplated that by the fourth year, the combination of continuing details to the Department of Commerce, other agency assignments, and other State Department positions for training, as well as normal attrition through retirement and resignation and adjusted intake, will bring the number of positions and of Foreign Service Officers of the State Department into a new balance. This will compensate for the transfer of positions to the Department of Commerce under Reorganization Plan Number 3.

**Mr. Brooks.** How does the Department of Commerce view its trade policy responsibilities under the administration's reorganization plan, and how do you plan to execute those responsibilities?

**Mrs. Kreps.** You are speaking now to the trade policy aspects of our work?

**Mr. Brooks.** The Trade Policy Committee.

**Mrs. Kreps.** The formulation of policy is, of course, complicated business. We have two major roles to play in that. We will serve on the Trade Policy Committee under the direction of the USTR, but we will also be working day-to-day on the programs and the implementation.

It is virtually impossible to separate the actual carrying out of programs from the formulation of policy since it is in the implementation that one gets the hard questions and has to carry them forward under the aegis of some policy framework.

We think the Commerce Department and the USTR can work together very well in this regard since we have done so most recently in the MTN negotiations. We have staffed and worked with Mr. Strauss throughout those negotiations and he has been very complimentary of our role. We think that we would be able to play a role and have a voice in the formulation of policy, which would be a very constructive voice. We do not expect to have difficulties in that regard.

**Mr. Brooks.** In what way does the Department of Commerce intend to exercise its responsibility as a nonvoting member of the board of the Export-Import Bank, and does the Department intend to take an active role in deliberations of the board? Or do you anticipate that it will just be a pro forma membership?

**Mrs. Kreps.** On policy decisions by the Eximbank, we would expect to play a role. Obviously, we would not expect to get involved in day-to-day decisionmaking by the Eximbank.

But if, for example, we are going to carry on our export development function, it follows that we need to alert American firms to the opportunities of financing by the Eximbank. We would, therefore, need to know a good deal about the Eximbank's policies and practices. We could provide a liaison which we think is essential.

**Mr. Brooks.** How does Commerce plan to structure antidumping and countervailing duties to avoid the present deficiencies?

**Mrs. Kreps.** First of all, the primary problem with the antidumping, countervailing programs seems to have been inadequate resources. We expect that there will be considerably increased resources for those programs. Those increases would have occurred whether or not there had been a trade reorganization, but they will be to our advantage in this case.

Let me elaborate on that for just a moment. We will be hiring about 130 new Commerce employees to work in these areas. But beyond that, we have structured the countervailing, antidumping functions directly under an Assistant Secretary for Trade Administration, therefore giving those programs a very much greater visibility and greater importance in the Department of Commerce than they have had before. It is a matter of putting the functions in the Department where trade itself is the primary goal.

**Mr. Brooks.** Mr. Horton?

Mr. HORTON. Thank you, Mr. Chairman.

Mrs. Kreps, we certainly want to thank you for being here with us today. We commend you for the work that you have done in this reorganization plan.

During the course of your testimony and while the chairman was asking you questions, I had occasion to look at this supplement that you furnished us on the Department of Commerce proposed trade reorganization plan.

Incidentally, Mr. Chairman, I am not sure if it is in the record, but I think it would be important to include it in the record because it does give a detailed analysis of the various bureaus, Assistant Secretaries, and so on being proposed in this organization. I think the members would be very interested in seeing it, and it should be a part of the record.

So, I would ask unanimous consent that that be included.

Mr. Brooks. Without objection, it will be included in the record at this point.

[The material follows:]

## DEPARTMENT OF COMMERCE

## PROPOSED TRADE REORGANIZATION PLAN

SECRETARY OF TRADE AND COMMERCE

The Secretary of Commerce will become the Secretary of Trade and Commerce and trade matters will be the Secretary's principal responsibility. The Department of Trade and Commerce will become the one cabinet department whose principal responsibility is trade.

The Secretary will be ultimately responsible for the following areas of trade activity: export expansion, including both overseas and domestic commercial services; export administration, particularly the export control system; and import regulation programs of antidumping, countervailing duties, and Section 337 cases.

The Department will have a key role in trade policy development and will provide much of the staff and operational base for negotiation and program responsibilities of the United States Trade Representative (USTR).

The Secretary will serve as an ex-officio member of the Board of the Export-Import Bank.

As chief operational officer of Trade and Commerce, the Secretary will assure that other elements of the Department whose activities relate to international trade shall appropriately support and coordinate with the Under Secretary for Trade. Included among these activities are industry sector analysis, business development loans, census trade statistics, trade adjustment assistance for businesses and communities, minority business development, industrial productivity analysis, maritime, industrial innovation, cooperative technology, product and industrial standards, and secretarial field representation.

UNDER SECRETARY FOR TRADE

The Under Secretary for Trade will be responsible for overall development and management of the trade functions in the Department of Trade and Commerce. In the Secretary's absence, the Under Secretary represents the Department on the Trade Policy Committee and as ex officio member of the Board of Export-Import Bank of the United States. The Under Secretary will meet with foreign visitors both in the United States and abroad to discuss a broad range of trade matters.

The Under Secretary also coordinates trade regulation, trade policy and programs and trade development to ensure consistency between Administration policy and trade operations. To accomplish this, the Under Secretary oversees coordination between and among the following areas:

- o investigation/determination functions and the import policy recommendation function;
- o sectoral analysis capability and trade policy and regulatory functions;
- o Foreign Commercial Service and trade policy and regulation;
- o industrial innovation and trade development.

The Deputy Under Secretary will serve as the principal deputy for the Under Secretary for Trade. In the Under Secretary's absence, the incumbent is to act in place of the Under Secretary in all matters pertaining to trade. The Deputy Under Secretary will have no direct operational or program responsibilities.

The Deputy Under Secretary will:

- o Be responsible for oversight of day to day operations to ensure that these activities are conducted efficiently and smoothly.
- o Be responsible for the administrative functions (e.g. agency level personnel, budget, administrative services, and others).



ASSISTANT SECRETARY FOR TRADE DEVELOPMENT

The Assistant Secretary for Trade Development will be responsible for carrying out the policies and programs of the Department to promote world trade and to strengthen the international trade and investment position of the United States.

In carrying out these functions, the Assistant Secretary will be responsible for conducting the Department's programs for participation in international trade fairs, trade missions, and other overseas trade promotions; programs conducted within the United States to expand the export-consciousness of American firms and to facilitate entry into international trade; and efforts to provide assistance to American exporters through the facilities of the U.S. Commercial Service and the Foreign Commercial Service. With respect to East-West trade, the Assistant Secretary will be responsible for conducting the Department's program for expanding trade and investment in Communist countries, and for the formulation and analysis of policies with respect to U.S. commercial policy in those countries.

The Assistant Secretary will be the person responsible for managing and closely coordinating the related trade expansion responsibilities of the Foreign Commercial Service, the Domestic Commercial Service, and the East-West Trade and Export Development units in Washington. This organizational structure will allow, for the first time, management by one person of export expansion activities of the Foreign Commercial Officer in, say, Kuwait, the Domestic Commercial Officer in Indianapolis, and the relevant trade specialist in Washington. It will not only assure unified management of these functions, but will also allow rotation of personnel among the three areas so that coordinated services will be available from point of manufacture to point of sale.

The Assistant Secretary shall advise the Secretary and Under Secretary of policies and programs relating to these functions. The Assistant Secretary will represent the Department on the Board of the Foreign Service and in other matters relating to the commercial responsibilities of the Departments of State and Commerce. The Assistant Secretary will be the National Export Expansion Coordinator.

The specific programs and activities for which the Assistant Secretary is responsible are detailed on the following pages.

FOREIGN COMMERCIAL SERVICE

The Foreign Commercial Service is responsible for assisting American business abroad through counseling, marketing data, project development assistance and liaison with foreign government agencies. The Service provides direct support to Trade and Commerce (TAC) overseas promotional activities such as trade missions, trade fairs, and procurement conferences. It is responsible for the development of marketing and commercial intelligence through the Worldwide Information and Trade System (WITS) for dissemination to the American business community.

The members of the Service will serve as part of the U.S. Embassy staffs and will report directly to the Ambassador or Chief of Mission in each country. The Foreign Commercial Service will provide personalized assistance to American business persons abroad by providing support to Export Development Offices, trade missions, fairs, catalog shows and other activities. The Service will develop trade leads, identify potential agents/representatives and develop other commercial intelligence for transmittal to the East-West Trade and Export Development units in Washington and the U.S. Commercial Service. It also will develop information and report to Trade and Commerce on foreign commercial and industrial trends. The commercial intelligence data obtained by the Service will be disseminated in part through the WITS. The Service will provide support to TAC units in import and export administration and monitoring of multi-lateral trade agreements. It will assist U. S. business persons in resolving trade complaints against foreign firms and governments.

U.S. COMMERCIAL SERVICE

The U.S. Commercial Service represents Trade and Commerce with the business community in the United States. It provides business with information, technical assistance and counseling on export and investment matters. The Service assists in identifying potential U.S. exporters and participants in overseas promotional events.

The Service administers a system of district offices, currently 43, located in commercial centers throughout the United States. It offers U.S. firms counseling on overseas marketing, technical export information, guidance on the marketing opportunities, and advice on marketing strategies. The service conducts seminars, workshops, and conferences. It utilizes Export Development and East-West Trade information services, including the Worldwide Information and Trade System (WITS). The Service assists in obtaining commercial information from U.S. firms for use in Export Development planning and evaluation. It also advises the business community of significant trade developments, trade policy issues and technological developments.

The U.S. Commercial Service publishes Commerce Business Daily.

The U.S. Commercial Service will include a staff of 353.

EXPORT DEVELOPMENT

The Export Development unit has primary responsibility for planning the export development programs in non-Communist countries. Its mission is to expand U.S. exports. It develops promotional programs conducted by the U.S. and Foreign Commercial Services and provides them with analytical and technical support.

This unit performs the program planning and evaluation activities for the Assistant Secretary and has responsibility for determining program priorities for the Foreign and U.S. Commercial Services. It supports overseas promotional activities through management of Export Development Offices, development of overseas trade missions, sponsorship of special missions, and other trade and investment activities. This unit, particularly its staff of country commercial experts, is responsible for providing counseling services to U.S. business on foreign markets, for market research, and for technical support to other units of Trade and Commerce (TAC).

This unit supports staff for Trade and Commerce information programs, including the Worldwide Information and Trade System (WITS). Such information is disseminated through the Foreign and U.S. Commercial Services for use by the U.S. business community. This unit also conducts a nationwide campaign on export awareness through specialized counseling, seminars, publications, joint industry/government activities, and assistance in competing for major overseas projects. The Foreign Commercial Service stages promotional events and the U.S. Commercial Service assists in identifying participants.

Additionally, this unit coordinates the program activities of the President's Export Council which provides advice from the private sector to the Secretary and the President on issues relating to export expansion activities.

The Export Development unit has a staff of 450.

EAST-WEST TRADE

The East-West Trade unit, established in 1972 to foster commercial and economic relations between the United States and communist countries, helps American firms conduct business in communist countries; develops and explains East-West trade policy; strengthens governmental mechanisms for expanding trade; and expands understanding of issues and opportunities in East-West trade.

This unit conducts the day-to-day bilateral commercial contacts with the embassies and other communist government entities in the U.S. It provides support for the Cabinet-level joint economic commissions, seeks resolution of commercial problems, and assists in the development of commercial policy toward individual communist countries. It collects, analyzes, and disseminates information about economic conditions, trade-related laws and regulations and market opportunities, and advises U.S. firms on country oriented trading problems. It also maintains day-to-day liaison with the major private U.S. bilateral councils on eight individual communist countries.

This unit offers practical services to help U.S. firms promote and market products in communist countries. It conducts briefings on "how to do business", arranges contacts between U.S. business and foreign trade organization officials, disseminates information on business opportunities in communist countries; and assists U.S. firms in transaction problems involving Federal agencies. In addition, this unit plans, recruits for, and manages trade promotion events such as fairs, technical sales seminars, and catalog shows in communist countries.

Lastly, this unit formulates, analyzes and makes recommendations about legislative and broad policy issues arising in East-West trade. It studies trade potential, balance-of-payments projections, econometric modeling of communist economies, and the economic impact of East-West trade on the United States, its communist trading partners, and other nations. It also maintains a major statistical data base on East-West trade and provides analyses of trade trends.

The unit has a staff of 92.

**ASSISTANT SECRETARY FOR TRADE ADMINISTRATION**

The Assistant Secretary for Trade Administration will have overall responsibility for the management and operation of the principal programs involving the regulation of imports and exports. The incumbent advises the Under Secretary and Secretary on the policies and programs relating to trade administration.

The Assistant Secretary is responsible for import administration: antidumping investigation and enforcement and countervailing duty investigation and enforcement. The Assistant Secretary will be directly assisted by an Office of Antidumping and Countervailing Duty Policy of 15 people.

The Assistant Secretary is responsible for export administration: export licensing and enforcement, including national security, foreign policy, and short supply export controls.

The Assistant Secretary is also responsible for a number of special regulatory programs: antiboycott compliance, industrial mobilization, foreign trade zones, unfair import practices, (§ 337) national security investigations, and several other statutory import programs.

The specific programs and activities for which the Assistant Secretary is responsible are detailed on the following pages.

IMPORT ADMINISTRATION

The Import Administration unit is responsible for the investigation of antidumping and countervailing duty cases. Following investigation, this unit makes a formal recommendation for disposition of the case.

In countervailing duty cases, this unit investigates and determines whether a subsidy is being provided with respect to the manufacturer, production or exportation of merchandise imported into the United States. As part of the same process, the International Trade Commission (ITC) investigates and determines whether an industry is materially injured or is threatened with material injury. If both of these determinations are positive, a countervailing duty is imposed in the amount of the net subsidy determined to exist.

In antidumping cases, this unit investigates and determines whether merchandise is sold or is likely to be sold in the United States at less than fair value. As in countervailing duty cases, the ITC investigates material injury. If both determinations are positive, an antidumping duty is imposed, equal to the amount by which fair foreign market value exceeds the U.S. price of the merchandise.

In addition to these two functions, this unit will also include the following import related activities:

Unfair import practices (§ 337 cases) involve the investigation and determination as to whether unfair methods of competition or importation cause substantial injury to domestic industry. The vast majority of current actions involve claims of patent infringement.

The foreign trade zone program evaluates and processes applications by port communities seeking to establish limited duty free zones as part of local economic development programs.

Special statutory import programs relate to the import of quota allocation watches and watch movements from U.S. territories, and the import of educational, scientific, and cultural materials by nonprofit institutions pursuant to the Florence Agreement.

The Import Administration unit will consist of 310 persons.

EXPORT ADMINISTRATION

The Export Administration unit is responsible for export controls for reasons of national security, foreign policy, and short supply. The major functions of the program are policy planning, licensing, compliance, and short supply monitoring and licensing.

The policy planning function includes developing and coordinating recommendations on export control policies and programs, reviewing export license applications that present particular foreign policy or security issues, and coordinating with other Executive Branch agencies on licenses and policies requiring interagency review.

The licensing function includes the development of export control procedures and regulations, technical analysis and review of products, participation in interagency review of license applications, statistical and analytical reports of export licensing activities, and formal issuance of licenses.

The compliance function includes the investigation and prosecution of export control violations.

The objective of the short supply function is to restrict the excessive export of items in domestic short supply and to reduce the inflationary impact of foreign demand.

In addition to export controls, this unit will include the anti-boycott and industrial mobilization programs.

The antiboycott program involves the administration and enforcement of the foreign boycott provisions of the Export Administration Act and the monitoring of the impact of foreign boycotts on the United States. This includes the investigation and enforcement of compliance with the law as well as the processing of boycott reports.

The industrial mobilization program monitors and assures timely availability of material and products essential to industrial performance on contracts for national defense. This includes stockpile management of strategic and critical materials and an emergency preparedness function designed to identify industrial products and facilities which are essential to mobilization readiness, national defense, or post-attack survival and recovery.

The Export Administration unit will include 195 persons.



**ASSISTANT SECRETARY FOR TRADE POLICY AND PROGRAMS**

The Assistant Secretary for Trade Policy and Programs is responsible for developing and operating an effective trade policy implementation mechanism within the Department of Trade and Commerce and for operating a variety of trade and investment programs to improve the U.S. trade position.

The Assistant Secretary provides overall direction and coordination of international economic policy formulation, research, and analysis within the Department, advising the Secretary and Under Secretary on such policies and programs.

The Assistant Secretary for Trade Policy and Programs will be principally responsible for the follow-up, implementation, and monitoring of the MTN. The Assistant Secretary will be responsible for closely coordinating with other involved offices and agencies these responsibilities and the process of educating U.S. business on the rights and opportunities resulting from the MTN.

The Assistant Secretary supports the Department's activities in international trade, economic, and investment matters -- and is an active participant in U.S. representation in GATT, OECD, UNCTAD, ILO and other multilateral deliberations and negotiations. The Assistant Secretary establishes and supervises the implementation of the Department's interagency policy role in such organizations as the NSC, STR, and the NAC, particular responsibility for MTN implementation and TPC support.

The Assistant Secretary's immediate office includes a country analysis staff which supports certain joint economic consultative mechanisms (e.g. Korea, Yugoslavia); operates trade facilitation efforts to resolve specific commercial complaints (e.g. Japan); and provides staff support to the Secretary and Under Secretary for meetings with foreign visitors and trips abroad.

The specific programs and activities for which this Assistant Secretary is responsible are detailed on the following pages.

### TRADE AGREEMENTS

The Trade Agreements unit is the primary source of trade policy development and support within the Department of Trade and Commerce. It identifies key trade policy issues and develops Departmental positions. A major responsibility of this entity is implementation of the MTN and other trade agreements for all non-agricultural matters.

Trade Agreements' activities include implementation and monitoring of MTN tariff and nontariff agreements, as well as investigation and resolution of problems in foreign country application of those agreements. Another function is the development of information and cases arising under the MTN, including the operation of the Trade Complaint Center, the central contact point to which business will bring complaints and problems regarding MTN and other trade agreements, and where the private sector will receive advice as to the recourse and remedies available to them. Operation of the private sector advisory process (ISACs) under the expanded scope of TPC coverage--including investment, East-West trade, etc.--in addition to trade agreements, is administered here.

In the import relief area, Trade Agreements (1) provides staff analyses to be used by the TPC in reviewing and considering section 201, 301, 406 import relief cases; (2) monitors relief actions; and (3) develops Departmental policy on orderly marketing agreements.

Trade Agreements develops a continuing program of examining post-MTN issues for negotiation or consultation, identifying and cataloguing foreign trade practices, such as those affecting trade in "services." It recommends policy objectives for Departmental officials to present in interagency and international forums. In addition, it develops plans for educating the U.S. business community on general and specific trade opportunities resulting from the MTN.

Another major function is participation in, and, as appropriate, leading negotiations and/or renegotiation of bilateral and multilateral trade agreements, such as the expansion of MTN code agreements, commodity agreements, orderly marketing agreements, international sector agreements, etc.

Other activities include the examination of U.S. access to raw materials and other resources located abroad and the recommendation of appropriate U.S. action in this area.

This unit will consist of 75 persons.

FINANCE AND INVESTMENT

This unit develops and implements policies and examines laws, regulations, and institutions in the financial and investment areas to determine their effect on U.S. trade and investment flows. It recommends changes in these to improve the U.S. trade position, and it monitors and analyzes inward foreign investment in the United States.

It represents the Department in international finance and development assistance affairs, especially those affecting export expansion. This includes providing analyses and staff support for Departmental representation on the National Advisory Council (NAC) and other bodies dealing with export finance, export guarantees and credit insurance, and bilateral and multilateral aid loans.

It examines the effect of U.S. tax laws and practices on U.S. trade competitiveness (DISC, foreign tax credits, taxation of U.S. overseas personnel, etc.). It conducts comparative analyses of foreign tax practices, and makes recommendations for changes.

Representing the Department in matters relating to U.S. direct investment, it analyzes investment trends and consults with business on U.S. regulations and international practices affecting investment. It recommends actions in bilateral, multilateral negotiations on investment. It develops positions on multinational corporation (MNC) issues, providing staffing for Departmental participation in MNC code issues and investment disputes. It advises on programs, policies and legislation affecting investment abroad and analyzes the balance of payments effects of such investment.

It analyzes transactions of domestic and international trade financing institutions from the perspective of effects on U.S. trade. It compares U.S. practices with foreign practices and recommends changes in U.S. practices. It also provides staff support for Secretarial membership on Export-Import Bank Board.

It develops recommendations to improve the access of U.S. service industries to foreign markets, representing the Department at interagency and international groups dealing with aviation, sea and multimodal proposals.

It operates statutory programs to monitor and analyze foreign investment in the United States. It identifies problems and recommends remedial action as necessary.

The Finance and Investment unit will include 55 persons.

POLICY PLANNING AND ANALYSIS

This unit conducts research and analysis on U.S. trade and on all factors affecting future trade prospects, developing policy recommendations to enhance the international trade competitiveness of the United States. It is the principal source within the Department for developing positions on international positive adjustment policies and on international sectoral issues. On the basis of its own research and analysis as well as that of the new Bureau of Industrial Analysis (BIA) and other parts of the Government, this unit forecasts future trade trends and is responsible for developing longer term policy options for U.S. trade and investment.

In conducting policy analyses of positive adjustment issues and international sectoral issues, it draws on the micro-economic and industry analyses of BIA, using these studies and data along with other information to formulate and evaluate policy options and to recommend policy positions. It develops positions to take on international positive adjustment policies in the OECD and other forums, it focuses on sectoral issues related to MTN implementation and to other trade and investment agreements and policies, and it participates in or heads U.S. delegations to international meetings concerned with sectoral or positive adjustment issues.

In supporting the development of faster U.S. export growth and a stronger competitive position, this unit examines the effects of trade incentives and disincentives of the U.S. and other governments. It serves as the central contact point for collecting and evaluating information on the likely effects of changes proposed to improve the U.S. export position, developing policy options and recommendations.

It also forecasts longer-term trade developments, with particular emphasis on identifying future trade problems that will face the United States. It identifies longer-run trade and investment policy objectives, basing these on its forecasts and its program of research into U.S. trade and the factors affecting U.S. competitiveness. It evaluates the effectiveness of U.S. trade and investment policies and compares these with major competitor nations. It uses mathematical models to simulate the effects of future policy alternatives, and provides the planning framework for trade policies and programs.

The Policy Planning and Analysis unit also develops and maintains computerized data bases and provides trade and international economic statistics to other parts of the Government and to U.S. business.

This unit will include 70 persons.

TEXTILES AND APPAREL

The Textiles and Apparel unit is the organization in Trade and Commerce that is responsible for the economic well-being of the U.S. textile and apparel industries, domestically and internationally. Its major efforts include negotiating bilateral textile and apparel import restraint agreements;\* monitoring imports from controlled (agreement) countries and uncontrolled countries, providing staff and technical support to the Committee for the Implementation of Textile Agreements (CITA); and, promoting the expansion of exports of textiles and apparel.

This unit prepares monthly performance reports which show imports compared to restraint levels for each bilateral agreement country. Problems of implementing the agreements are analyzed and brought before CITA for resolution. This unit makes special tables and analyses used by the U.S. negotiators of textile and apparel agreements. To accomplish this, it gathers and reports basic statistical data on imports. It prepares monthly reports on the overall import picture, comparing current monthly data with prior years. It is concerned with monitoring imports from uncontrolled countries. It classifies problems arising under agreements and trains foreign officials in U.S. classification procedures.

In addition, this unit provides current economic data and analyses of conditions in the domestic textile and apparel markets, including the impact of imports on these markets. It is responsible for the textile and apparel export expansion program and, in conjunction with the STR and other organizations, reduction of non-tariff barriers. Finally, it provides structural assistance to the industry in the form of new technology, research and development, and management training.

The Textile and Apparel unit will have a staff of 47.

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\* This is done as part of negotiating teams made up of State, Labor, and headed by the Chief Textile Negotiator from the Office of the Special Trade Representative.



Mr. HORTON. With regard to the chart which is in the latter part of this enclosure, I think this is very helpful. You do indicate the numbers that you expect will be in the Department.

Is there an overall figure for the numbers that are listed here? I have not tried to add them up.

Mrs. KREPS. Our rough estimate is about 2,500 people in the trade area under the Under Secretary for International Trade.

Mr. HORTON. Other than the new Deputy Secretary and the two new Assistant Secretaries, do you think you will need any more personnel? These personnel being transferred are people who are now on board, but do you expect that you will need more?

Mrs. KREPS. There is some net addition necessary. Let me ask Mr. Moyer to respond. It is small, but there is some increase necessary.

Mr. MOYER. And it is, Congressman, primarily at this time associated with those new positions that you identified. We think, at this time, the number is quite small. There is not anticipated, apart from transfers and internal reorganizing and reprogramming, a need for additional resources or persons.

Mr. HORTON. Is this chart the proposed internal reorganization to accomplish the purpose of the reorganization plan?

Mrs. KREPS. Yes, sir. This is the plan we developed. We have worked it through with OMB to satisfy not only our needs as we would see them, but also to mesh with the agreement by OMB as to what new resources we could have.

Mr. HORTON. Is there a current organization chart, that you could give us for comparison with this chart that you are proposing here?

Mrs. KREPS. Yes; we have a trade agency chart which is comparable to this but much smaller and much less elaborately laid out. We can submit that.

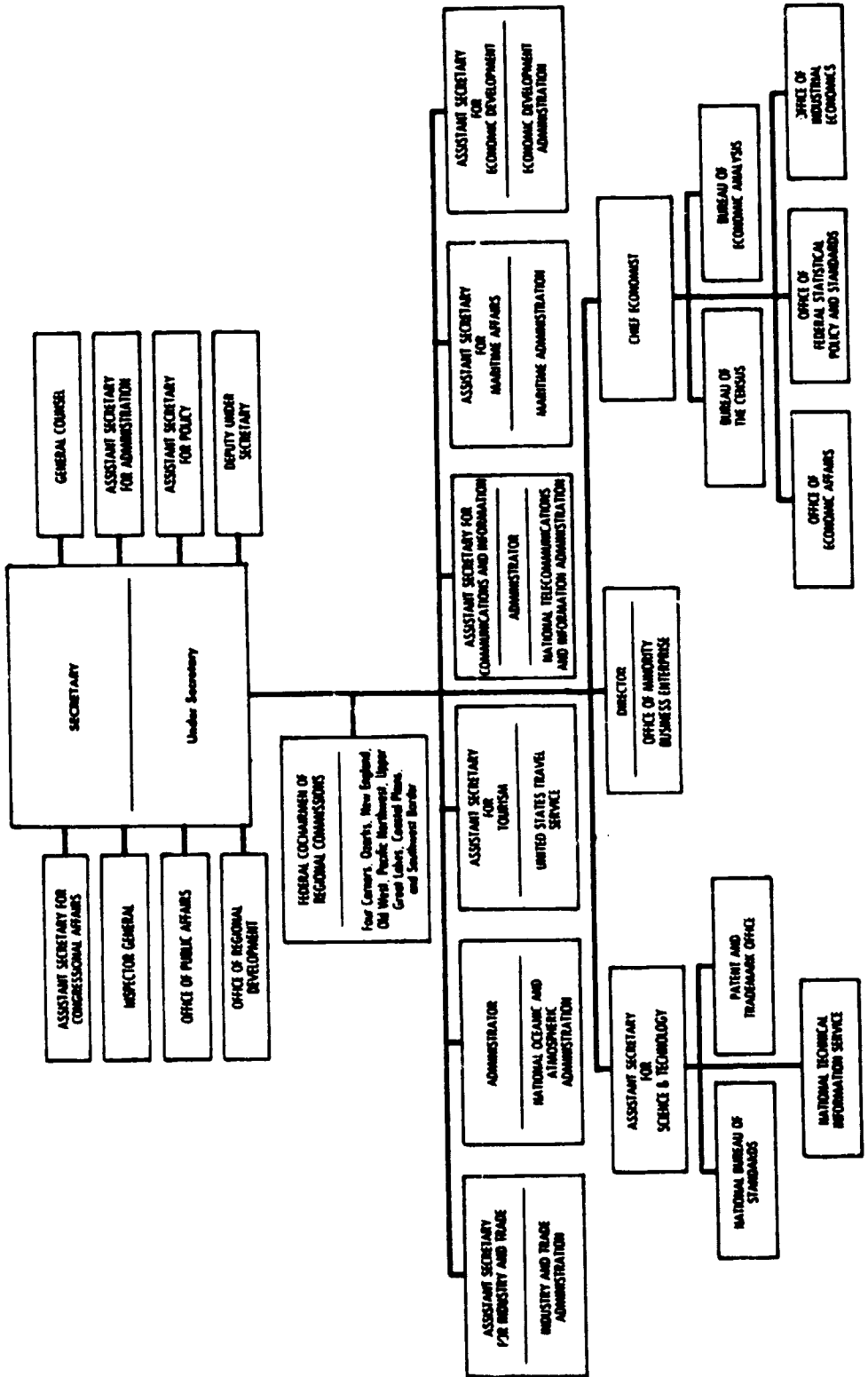
Mr. HORTON. I think that would be helpful for us to include in our record, especially in the report, so that Members can see what is being done. In other words, what you have furnished us here is a list of functions, bureaus, and organizations under the Under Secretary for International Trade.

Mrs. KREPS. All right.

Mr. BROOKS. Without objection, it will appear in the record at this point.

[The material follows:]

## DEPARTMENT OF COMMERCE





Mr. HORTON. One of the criticisms of the plan is that it does split policy and implementation. This could prove unworkable, or it could be an organizational arrangement which would permit a so-called "pass the buck" attitude.

Just how do you perceive Commerce's role vis-a-vis the Trade Representative; and, second, how are you going to avoid passing the buck?

Mrs. KILPATRICK. I was planning to pass the buck to Mr. Askew on that particular question.

Much has been made of the separation of policy and implementation. I do think it is overstated because, as Mr. McIntyre emphasized, there are many agencies in the Government that have a special interest in trade matters. It is the function of the USTR to coordinate those different interests.

Although Mr. Askew would speak better to this, it is my understanding that he would be the coordinator; he would be the final word on policy. But as far as Commerce is concerned, its programs are either specified by the reorganization plan or are mandated by law. In many instances, the programs that we carry out are clearly delineated in that fashion.

We have the export administration function, we will have countervailing, antidumping; and, in those instances, the final responsibility really is with us. We are mandated to take certain actions, and we are responsible to the Congress for those actions.

If, even in those cases, a question of overall policy were involved, that policy discussion would take place at the instigation of the USTR. An interagency discussion would then be brought to bear, as a matter of policy, and the issue would be reconsidered and perhaps resubmitted to the Congress for consideration.

Mr. HORTON. As one of those who has worked very hard with the plan, do you feel that this is a workable solution to the problem of trying to increase and make more viable our trade programs?

Mrs. KILPATRICK. I think so. I think it is a good plan, a strong plan, which does as little fragmentation as we can possibly get by with and still do the coordinating job that is required.

We are, by our very nature, fragmented, and I do think this plan does the very best possible job of pulling it together, giving it direction, and assigning specific responsibilities to specific people. We shall never get over the process of consultation and coordination, of course.

Mr. HORTON. As I understood it from the answers that Mr. McIntyre gave to the question that I asked him—which I am sure you heard because you were in the room at the time—I envisioned that the Trade Representative would have a very meaningful and very important role with regard to the determination and actual negotiating of many of the policies that relate to trade.

Do you see that this is going to create any friction between the Trade Representative and the Secretary of Commerce? I am not talking about individuals but Mr. Askew. I am sure, will pass along, and he will be succeeded by someone else, and you will be leaving shortly, there will be another Secretary; we will be dealing with different personalities. What I am concerned about is whether or not the reorganization is going to create a situation in which you will find

antagonisms and problems that are going to make it unworkable. Or do you see it as something that the Secretary, whoever it happens to be, will be able to work?

Mrs. KREPS. I think this plan will improve immensely the ability of these two people to work together because the plan lays out the duties that each is to pursue.

There has been, I think, more friction in the past than there will be after this plan is in effect.

Mr. HORTON. I am worried—as I am sure you are—that in the future we have to be even more concerned about promoting our products and making sure that we sell them abroad, at the best possible price.

Do you feel that the Commerce Department will have an aggressive attitude in this respect, and do you feel that this plan will help in this respect?

Mrs. KREPS. The Commerce Department has had a very aggressive stance vis-a-vis exports for the past year and a half. It was our Department that pushed for a national export policy, and it has been our Department that has led the drive to focus attention on the need for exporting.

I think the plan helps us to move ahead in that regard. It gives us programs, it gives us additional resources, and it gives us a clear line of authority. Therefore, I think it will be helpful, however I must again say that we had already embarked upon an export promotion plan that is, to my knowledge, the strongest the Department has ever had.

Mr. HORTON. Thank you very much.

I do have some additional questions that I would like to submit to you and ask that you supply the answers in writing to be included in the record.

Mr. BROOKS. Without objection, they will be included in the record at this point.

[The material follows:]

## QUESTIONS SUBMITTED BY MR. HORTON

QUESTION: Besides the Commercial Attaches, how many people will actually be transferred from one agency to another? Will you supply us with a detailed list of the number and from what agency they will be transferred and to where?

ANSWER: In addition to the commercial attaches from the State Department, we expect that about 219 positions will be transferred from Treasury to Commerce: (1) 14 from the Office of Tariff Affairs; and (2) 205 from the Customs CVD/AD investigative unit. The investigative unit figure includes the 130 positions Congress recently approved to handle the expected growth in the countervailing and dumping caseload.

Up to 15 positions may be transferred to USTR from State and up to 5 positions may be transferred to USTR from Treasury.

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QUESTION: This is a question regarding the new Deputy Secretary of Commerce. I assume that since the Under Secretary of Commerce position is abolished that this is really a title change with the new "Deputy" position. The number two person at the Department of Commerce, but it is not clear. Usually there is some language such as "the Deputy shall act in the absence of the Secretary" or the like, but that is missing. Could you explain the new position.

ANSWER: The new Deputy Secretary of Commerce will be the second-ranking official of the Department. Section 2 of the Reorganization Plan No. 2 of 1950 authorizes the Secretary to delegate any function and we believe that this is adequate authority for the Secretary to designate the Deputy Secretary as second-ranking official. We expect that an appropriate secretarial delegation will be issued when the first Deputy Secretary takes office.

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**QUESTION:** In the Message it is very clear that one of the new Assistant Secretaries of Commerce will be for "Trade Administration" and the other for "Export Development." Yet, in the actual Plan, these titles are not assigned. Can you tell us why they are not designated?

**ANSWER:** The reorganization plan denominates the new Under Secretary as Under Secretary for International Trade. In keeping with the general practice regarding Assistant Secretaries of Commerce, the plan does not name the two new Assistant Secretaries. They will be named administratively by the Secretary, as is now the case with regard to the Assistant Secretary for Industry and Trade (this position will be the third Assistant Secretary reporting to the Under Secretary for International Trade).

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**QUESTION:** Exactly what are your plans for the Commercial Attaches? Your message says that "initially" they will be transferred to the Commerce Department, yet the message continues that "over time" ... "undoubtedly the Commerce Department will review the problem. I think that it is unfair to leave these public servants left dangling with an "undoubtedly something will be done" response.

**ANSWER:** All 162 existing full-time commercial positions are to be transferred at once. Any additions will be made incrementally and probably over quite a few years; we expect no sudden changes of significance once the initial transfer occurs.

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**QUESTION:** Who will be the actual negotiators in commodity negotiations? Will it be negotiators from the State Department, the new STR, or perhaps both?

A follow-up question to that is, who will be in charge of commodity negotiations? I assume that it is the new STR.

**ANSWER:** The U.S. Trade Representative will have primary authority and responsibility for commodity negotiations. USTR will draw heavily on the expertise of

the State Department in commodity negotiations, though, and may call upon State to lead such negotiations when nontrade-related issues are presented.

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QUESTION: Who will be the actual negotiators for energy negotiations, the State Department, the Department of Energy or the new STR, or some combination?

A follow-up question to that is, who will be in charge of energy negotiations? Again, I assume that it is the new STR.

ANSWER: The Secretary of Energy and State, both sitting on the Trade Policy Committee, will advise the Trade Representative on energy trade policy, with the right to appeal directly to the President if either or both should disagree with the decision of the Trade Representative. Negotiations will be conducted by all three agencies at different times, but policy guidance for negotiating positions will come from the Trade Representative (acting with the advice of the TPC).

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QUESTION: Can you supply us with a list of exactly what new Multilateral Trade Negotiations (MTN) implementation functions are switched to the Commerce Department?

ANSWER: Commerce, a member of the TPC, will coordinate with the Trade Representative on MTN implementation. It will be responsible for functions that are best handled by constituency-oriented agencies, including:

- ° educational and promotion programs,
- ° technical assistance to the private sector,
- ° consultations with private sector advisory committees,
- ° data base development and maintenance,
- ° staffing for formal complaints,
- ° information dissemination,
- ° analytical support,
- ° developing basic information on foreign laws, regulations and procedures affected by MTN agreements,

- ° monitoring foreign compliance, and
- ° assisting U.S. exporters in qualifying for foreign government procurement opportunities, identifying problems, securing certification, etc.

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**QUESTION:** Concern has been expressed that since the Plan does not explicitly mention the "service industry" that this might be overlooked, yet it is one of our few bright spots in the trade area providing us with a surplus of \$23 billion in our balance of payments accounts in 1978. I have a two-part question. First, is the "service industry" included in your trade reorganization; then, second, what agency or group will be in overall charge of the service industry aspects of trade?

**ANSWER:** Trade in services definitely is included in the term "trade." As in other areas, the Trade Representative with the advice of the Trade Policy Committee, will establish policy, and line agencies -- particularly the Commerce Department -- will carry it out.

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**QUESTION:** What is your understanding of the relationship between STR and the Trade Policy Committee? Will you or the Committee be the final authority on trade policy?

**ANSWER:** The Trade Policy Committee will be the interagency mechanism through which each interested agency will have its legitimate input. The TPC will be advisory to the Trade Representative; of course, if a member disagrees with his final recommendation, that member is free to appeal to the President. The President is the final authority.

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QUESTION: Could you explain to us the exact function of the Trade Negotiating Committee?

ANSWER: The function of the Trade Negotiating Committee is to manage negotiations in accordance with TPC and USTR policies. It will develop negotiating tactics and strategy within the policy guidance laid down through the TPC and the USTR. It will be made up solely of the departments actually involved in the negotiating delegations.

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QUESTION: How many people do you think will be required for the STR office in Geneva?

ANSWER: Approximately 11.

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QUESTION: You have been charged with the lead responsibility for trade and commodity matters in the Organizations for Economic Cooperation and Development (OECD). How many people will that take, will they all be STR personnel, and where will they be located -- in Washington or overseas?

ANSWER: STR will have people involved in OECD trade and commodity matters; they will be STR personnel located in Washington; we do not presently expect to have STR people working at the U.S. mission to the OECD.

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QUESTION: You are also charged with the lead responsibility for the United Nations Conference on Trade and Development (UNCTAD). How many people will that take, will they all be STR personnel, and where will they be located?

ANSWER: We expect 8 people to spend a substantial proportion of their time working on UNCTAD trade and commodity matters. Most will be STR personnel in Washington; however, our delegation in Geneva will also have 2 STR personnel working on trade and commodity matters in UNCTAD.

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QUESTION: You have been charged with policy in virtually all trade matters from import remedies, to East-West trade, to energy trade, etc. Do you intend to do all "in-house" policy research, or do you intend to rely on the line agencies and coordinate policy?

ANSWER: We will rely on line agencies to do much of the policy research.

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QUESTION: What is your understanding of the role of the new Deputy Secretary of Commerce? Is that simply a title change with the Under Secretaryship that is being abolished?

ANSWER: The reorganization plan provides for the establishment of a Level III Under Secretary for International Trade, who will be responsible for trade matters. Legislation pending would provide also for a Level III Under Secretary for Economic Development. The Administrator of the National Oceanic and Atmospheric Administration is also at Level III. The net result would be four Level III executive officers in the Department.

It makes sense, therefore, to upgrade the existing Under Secretary to a Deputy Secretary to avoid sensitive problems or precedence among program executives. This would accord with the existing management structure of the Departments of Defense, State, Treasury, Justice, Agriculture, Transportation, and Energy, each of which has a Deputy Secretary.



QUESTION: In the Message, the two Assistant Secretaries are designated, one for "Trade Administration" and the other for "Export Promotion," yet they are not so designated in the Plan. Is there a reason for that from your perspective? Would you object to them being so designated?

ANSWER: Under the reorganization proposal, attention to trade matters will become a principal mission of the Department. The creation of the position of Under Secretary for International Trade ensures that the vital area of trade policy implementation will receive the kind of day-to-day attention at the very highest level of this Department that it both demands and deserves. There will be added to the Department 2,500 people, including approximately 1,000 who are being transferred from the Departments of Treasury and State. Moreover, in our proposal, we have identified three major areas of trade responsibilities -- trade development, the administration of import and export programs, and international economic policy -- each of which warrants high level management and leadership at the Assistant Secretary level (only two additional positions are needed, as there is already an Assistant Secretary for Industry and Trade).

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QUESTION: I have a series of follow-up questions regarding these Assistant Secretaries. First, the Plan and Message lists two, yet the proposal submitted by you lists three. Can you explain where this third one came from?

ANSWER: Only two Assistant Secretary positions are needed since authority already exists for one Assistant Secretary (now the Assistant Secretary for Industry and Trade).

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QUESTION: Second, if the third Assistant Secretary is simply a change in name for the present Assistant Secretary for Industry and Trade, won't that cause a problem since he has some domestic industry duties?

ANSWER: In recent years, most of the focus of the Industry and Trade Administration has been on international and export issues. We anticipate the ability to handle properly those few matters which are purely "domestic" through some functional transfers to the new Bureau of Industry Analysis under the Chief Economist, the Assistant Secretary for Science and Technology, the Assistant Secretary for Policy, etc.

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QUESTION: Third, why are the names of the Assistant Secretaries different from those listed in the President's Message? The "Trade Administration" title is left unchanged, but "Export Promotion" seems to have disappeared.

ANSWER: Some titles have been changed slightly to more accurately identify the responsibilities of the particular assistant secretary.

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QUESTION: Can you explain to us what career pattern you envision for the Commercial Attaches?

ANSWER: Members of the Foreign Commercial Service will have career tracks available to them in the Department of Commerce.

As Foreign Commercial Service Officers, they can aspire to chief of commercial section positions, which in major embassies will carry with them Counselor of Embassy titles and responsibilities. In embassies with active commercial programs, such as Tokyo, Jidda, London and Bonn, counsel of embassy positions will have significant management and trade policy responsibilities and will have Senior Executive Service-level grades. It is also anticipated that, on a selective basis, these officers may be considered for Principal Officer

positions at consulate generals and for Deputy Chief of Mission and Chief of Mission (Ambassador) positions at posts with major commercial programs.

Within the Department, the full range of junior to senior positions will be available to Foreign Commercial Service Officers. Career patterns for these officers envisage assignments within the Department and its domestic field officers which will prepare them to compete on equal terms, with domestic counterparts, for the Department's senior career positions.

Mr. HORTON. Thank you, Mr. Chairman.

Mr. BROOKS. The gentleman from Minnesota, Mr. Stangeland.

Mr. STANGELAND. I have no questions, Mr. Chairman.

Mr. BROOKS. Thank you very much.

I want to thank you again for your gracious contribution to the hearing and for your fine work. I guess we will not see you here any more, but I hope you will come back in another capacity. We look forward to seeing you again.

Mrs. KRERS. Thank you, Mr. Chairman and Mr. Horton.

[Mrs. Kreps' prepared statement follows:]

STATEMENT OF  
JUANITA M. KREPS  
SECRETARY  
U.S. DEPARTMENT OF COMMERCE  
before the  
SUBCOMMITTEE ON  
LEGISLATION AND NATIONAL SECURITY  
COMMITTEE ON GOVERNMENT OPERATIONS  
U.S. HOUSE OF REPRESENTATIVES  
OCTOBER 16, 1979

Mr. Chairman and Members of the Committee: it is a pleasure for me to be here today to share with you our plans for a successful implementation of the Administration's trade reorganization proposal. We in Commerce have given this issue priority attention for many months. We believe that we have been able to develop a plan which will result in the Department of Commerce significantly contributing to the primary goal of trade reorganization: that is, an enhanced capacity for the federal government to strengthen the export performance and import competitiveness of American goods and services.

We find ourselves at the dawn of a new era in U.S. trade relationships. Successful implementation of the Tokyo Round trade agreements will move us towards even greater integration with the world economy. The MTN will offer new opportunities, but we shall have to work at maximizing the benefits to our economy. This is particularly so because global competition will intensify in the 1980's.

In the decade ahead, many less-developed countries will become stronger exporters of consumer goods and mid-level technology products. This will increase U.S. imports, and it will also push the industrialized nations more heavily into the production of capital goods and higher technology exports. The U.S. export position will be challenged more directly than ever before. Increased competition, coupled with more open markets, will have a profound effect on our economy and our growth. International trade will become one of the major factors affecting the performance of U.S. industry. Some industries will prosper, while others will falter in the face of increased competition. How we deal with trade growth will materially affect all Americans.

There is much we can and must do. What is called for is nothing less than a complete reorientation of our thinking on trade. We have traditionally treated international economic policies, domestic economic policies, export development policies, and policies affecting individual industries as though they were unrelated.

Today, world trade has become too important to the health and growth of the American economy to be treated as a separate and somewhat peripheral issue.

Reorienting our thinking on trade policy is no simple matter. But if the 1980's are to be different, we must make at least three fundamental changes:

First, we must elevate the priority of trade in the hierarchy of our national objectives. We must follow the lead of our successful competitors and push to the forefront the question--"how will this affect our trade?"--when we consider tax policies, investment policies, antitrust policies, environmental policies, regulatory policies, and all other policies which can have a fundamental effect on our international competitiveness. Bringing this about will be neither easy nor inexpensive. Some vested interests and some domestic priorities will need to move over to make room for the enlarged importance of trade.

Second, we have to link our trade policies more closely to our domestic policies affecting industry. We must recognize that our competitiveness depends on far more than what we do at the border; that we can improve our competitive position only if we improve our technology and pace of innovation, our investment in plant and equipment and, hence, our productivity. Our trade policy thinking must reflect the fact that trade problems are industry problems. Our failure to address them as such is partly responsible for our inability to deal with the trade challenges of the past two decades.

Third, many businesses need to reorient their thinking, for many businesses, like government, have focused their energies on the domestic economy. Too often import competition has been taken lightly and export markets have been ignored. We are no longer an insulated, self-sufficient continental economy. The time has come for us to stop acting like one. With the increased openness of markets resulting from the Multilateral Trade Negotiations (MTN) and increased competition in the 1980's, U.S. business will have to find more of its sales growth in foreign markets.

The Government can help, particularly by removing obstacles and disincentives to increased export efforts. The Department of Commerce will be devoting increasing attention to identifying obstacles to export expansion, calling them to interagency attention and searching for ways to remove them. The Government can also increase its efforts to help business locate and exploit export opportunities, to ensure adequate export financing, and to obtain fair and open access to foreign markets.

For our part, reorganization of the trade functions of government is a vital first step in improving the export performance and import competitiveness of American goods and services. If reorganization is to be successful, however, the trade responsibilities of government must be centralized and streamlined.

The U.S. Trade Representative (USTR) will be responsible for coordinating our international trade and direct investment policies. The Department of Commerce will work with the USTR and will be responsible for the implementation of the nation's trade policies through the day-to-day operation of most of our non-agricultural trade functions.

This proposed partnership is a natural extension of the ongoing, highly successful partnership of the STR and Commerce during the Multilateral Trade Negotiations. As Ambassador Strauss has noted, the Commerce effort was indispensable to the successful outcome of the MTN; continuing this partnership permits the Government to build on strength and to grow from it.

The Department's strength in this area was due to the fact that more than 40 Commerce staff persons were available to provide the principal staff support to STR in the negotiation of the MTN. Many of these people served on the front line, participating in the work of the U.S. delegation in Geneva; they therefore have intimate knowledge of all aspects of the MTN. These persons will now be responsible for the day-to-day implementation and monitoring of the trade agreements.

The task of consolidating the day-to-day operations of the trade functions of government (other than agriculture) into an enhanced Department of Commerce is an enormous one. We in Commerce have devoted a good deal of attention to how the Department must be reorganized to manage a broader range of trade responsibilities. We have a sound plan to assure that the transfer of ongoing programs--especially the antidumping and countervailing duty functions from Treasury--will occur smoothly and function efficiently.

Even with a sound institutional base, reorganization can succeed only if the programs are being carried out by highly qualified, capable and motivated people. The first step is to assure appropriate leadership. Towards this end, our reorganization plan provides for the creation of such new positions as Under Secretary for International Trade and two new Assistant Secretaries. In addition, we shall seek a substantial number of Senior Executive Service positions for the Commerce trade program, thereby providing

many attractive top management opportunities. In this regard, it is noteworthy that a task force headed by the General Counsels of Commerce and Treasury is conducting a talent search to find the best qualified persons to fill all key leadership positions in the vitally important antidumping/countervailing duty area.

This is a good start, but only a start. If leadership is to succeed, it also must have capable staff persons. In that regard, we are undertaking a number of special measures and efforts. First, we have initiated a freeze on 120 positions that are currently vacant in the Industry and Trade Administration (ITA), which is the area of Commerce which currently supports our major international trade activities. This freeze will continue until there has been an opportunity to review an overall recruitment and staffing plan that addresses the major personnel needs associated with trade reorganization. Moreover, we expect more than one-fourth of ITA's existing staff to turn over in the next few years, due largely to retirements.

Second, there are 130 new positions provided for the antidumping and countervailing duty functions in the Treasury Department appropriations act signed September 29, 1979. Those 130 new positions will come to Commerce from Treasury as a result of reorganization. A joint Commerce-Treasury/Customs task force has been working on this issue for three months. Customs recently borrowed 20 positions from Main Treasury, in anticipation of passage of its appropriations bill, in order to get a head start on filling those 130 positions by January 1, 1980 when the new antidumping/countervailing duty laws take effect. Commerce is carefully monitoring this hiring process and is being fully consulted on the filling of all vacancies.

Third, we have formed a work group with State to explore ways to facilitate the transfer of State personnel to the Foreign Commercial Service.

The net result of these changes is an opportunity to bring 500 new, highly talented professionals into our trade program rather quickly. Thus, the Department has a great deal of flexibility in meeting the personnel demands of its new trade responsibilities and is moving to capitalize on this opportunity.

At this time, Mr. Chairman, I would like to describe briefly for the Committee the proposed structure and division of responsibilities of an enhanced Department of Commerce. The detailed plan has been submitted to the Committee along with copies of the text of my testimony here today.



**SECRETARIAL RESPONSIBILITIES**

The Administration's reorganization plan provides for trade, involving both international and domestic issues, to become a principal responsibility of the Secretary of Commerce. To help ensure that export financing policy is consistent with trade policy in general and export promotion policy in particular, the Secretary will serve as a non-voting Director of the Board of the Export-Import Bank. As chief operational officer of Commerce, the Secretary will assure that all elements of the Department whose activities relate to international trade are coordinated.

The principal goal of the Department will be to foster the international competitiveness of U.S. industry. To help carry out these responsibilities, it is proposed to create the post of Under Secretary for International Trade, to be directly responsible to the Secretary for overall development and management of the Department's trade functions. The creation of such a post will ensure that the vital area of trade policy implementation will receive day-to-day attention at the highest levels of the Department. Moreover, to ensure that daily managerial direction is a reality, we propose to create a Senior Executive Service post of Deputy Under Secretary to be responsible for administrative functions, to manage daily operations and to act in the Under Secretary's absence.

Equally important to top management changes are the Department's plans to integrate its new trade responsibilities with existing programs in the areas of trade development, trade administration and international economic policy.

**TRADE DEVELOPMENT**

The Assistant Secretary for Trade Development will be responsible for developing and implementing the Department's programs to assist U.S. firms to export and to promote the sale of U.S. goods and services overseas. Principal objectives will be to assist small and medium sized firms to export, to provide better support with respect to major projects, and to take full advantage of the opportunities created as a result of the MTN agreements. Four closely associated activities, each aimed at helping American industry sell its products in foreign markets, and each headed by a Deputy Assistant Secretary, will be managed by the Assistant Secretary for Trade Development.

1. The United States Commercial Service will form the domestic outreach arm of our trade development activities with offices across the United States to encourage U.S. firms to export and

to deliver export assistance services directly to American business. The Service will build upon the Department's existing Bureau of Field Operations, but the Bureau's mission will shift to become primarily export-oriented.

2. The Foreign Commercial Service will be the Department's overseas arm once the Department absorbs the responsibilities of the Foreign Service Commercial Attaches. The Department is dedicated to creating a highly professional foreign commercial corps with one main responsibility: the promotion and support of American export sales.
3. The Bureau of Trade Development will plan and develop the programs and services to be delivered by the domestic and foreign commercial services. Working in cooperation with the policy units, this Bureau will be responsible for information and assistance programs to ensure that U.S. firms know of the opportunities created by the MTN and know how to exploit those opportunities. The Worldwide Information and Trade System, currently under development, will be a major tool in this effort.
4. The Bureau of East-West Trade will help American firms conduct business in communist countries, develop and explain East-West trade policy, strengthen governmental mechanisms for expanding trade with non-market economies, and expand business understanding of the unique issues and opportunities in such countries.

Together, these four units will carry out the basic trade development programs of the Department of Commerce. For the first time American business will be able to turn to a single network that extends from domestic field offices to Washington to overseas posts to get help in dealing with trade expansion.

With integration of domestic and overseas export promotion activities, we can focus all our Federal resources on the targets that are important to American business. And we will be able to shift resources from domestic to foreign operations as needed.

Moreover, the more varied career possibilities--including posting and advancement to senior positions in the field, in Washington, and overseas--will greatly enhance our ability to recruit talented professionals. We plan to ensure that our trade development officers will gain, through rotation, wide experience in U.S. field offices, in Washington, and in overseas posts. We believe this will give us the opportunity to build a rewarding and exciting career system which will attract and hold top-flight people.

Consolidation of trade development within the Commerce Department is long overdue. The Department has substantial expertise in trade promotion, with many specialists who have devoted their careers to conducting export promotion programs. They constitute the core from which we can grow. To be effective, trade promotion must be closely allied with expertise on trade policy, trade rules, and domestic industry trends. This expertise exists within the Department and will be drawn upon to make trade promotion an integral part of the trade policies of the United States.

#### TRADE ADMINISTRATION

The Assistant Secretary for Trade Administration will have overall responsibility for the management and operation of programs involving the regulation of imports and exports, especially the antidumping and countervailing duty and export control laws of the United States. This arrangement will improve the management of these critical functions by clearly identifying an official subject to Congressional confirmation as the person responsible for carrying out the will of Congress. There will be two major components under the Assistant Secretary, each headed by a Deputy Assistant Secretary:

1. The Bureau of Import Administration will be responsible for the investigation, monitoring and enforcement of antidumping and countervailing duty cases, for Foreign Trade Zones, and for statutory import programs.
2. The Bureau of Export Administration will be responsible for export licensing, short supply controls, anti-boycott compliance, and industrial mobilization. Our primary goal in this area has been and remains to enforce export regulations vigorously, but with the least possible disruption of U.S. export interests.

Managing the antidumping and countervailing duty issues will pose a number of challenges for the Department that go beyond the administrative aspects of any transfer of functions. First, the Trade Agreements Act of 1979 substantially changes the investigative process, introducing many new procedural requirements and significantly cutting the time allowed for such investigations, thereby resulting in a significantly increased workload. Moreover, these programs have suffered in the past from a lack of adequate staffing. The Administration is acting to address these problems. We note the recent Congressional approval of the Treasury/Customs FY80 appropriations act, which provides for the additional resources needed to carry out these functions effectively.

The Department of Commerce will give antidumping and countervailing duty programs the high priority which Congress intends, will address them at higher levels, will streamline their operations and should, therefore, be able to attract and motivate officers who can make the programs vigorous and effective.

#### INTERNATIONAL ECONOMIC POLICY

The Assistant Secretary for International Economic Policy will be responsible for policy research, analysis and development, and for implementing a wide variety of trade and investment programs. These include the follow-up, implementation, and monitoring of the MTN and other trade agreements; the development of recommendations to improve the access of U.S. service industries to foreign markets and to improve the access of all industries to export financing and credits; the development of Departmental positions on positive adjustment and international sectoral issues; and the conduct of the Department's textile and apparel industry program.

The international economic policy area will contain four units, each headed by a Deputy Assistant Secretary.

1. The Bureau of Trade Agreements will be responsible for implementing the MTN agreements for non-agricultural trade, including informing U.S. business of new trade opportunities and rights, monitoring foreign compliance, aiding in the settlement of disputes, and identifying problem areas requiring policy consideration by the USTR and the TPC.

The Department will undertake a major effort to acquaint U.S. business with the specific provisions of the MTN. "Plain English" summaries and descriptions of the MTN codes will be developed and conferences and seminars will be organized to ensure that U.S. firms know of the wide range of trade opportunities under the MTN.

We also will work to ensure that U.S. rights under the GATT and other trade agreements are preserved. In this, we will be assisted by the private sector advisory process (the Industry Policy Advisory Committee and Industry Sector Advisory Committees), which will provide information and advice on all aspects of international economic policy and programs.

We will establish a Trade Complaint Center, to which business may bring questions, complaints and problems regarding the MTN and other trade agreements. A telephone "hot line" will be initiated to facilitate the operation of the Center.

2. The Bureau of Finance, Investment, and Services will have responsibilities for examining foreign investment, taxation, services, antitrust, financial and other issues affecting trade. This Bureau will be the locus of the Department's expanded effort to identify the broad spectrum of international business and economic issues that affect U.S. service industries. The Bureau will also analyze questions affecting multinational corporations, will recommend actions to improve the U.S. investment position, and will continue to monitor foreign investment in the United States.
3. The Bureau of Policy Planning and Analysis will analyze incentives and disincentives to U.S. exports and develop recommendations to improve the U.S. export position. We will be working also to identify sectoral problems and will prepare positions for international discussions of positive adjustment and industry sector issues.

Since trade policies must be aimed at solving the problems of the future, we will be mounting a major new effort to analyze our competitiveness and to forecast the trade and investment problems of the future.

4. The Bureau of Textiles and Apparel will work closely with the USTR on textile and apparel issues. It will participate in textile negotiations and will assist the Office of Science and Technology in developing programs to improve our productivity and competitive position in those areas.

#### INDUSTRIAL ANALYSIS

Increasing the vitality of domestic industry is the only way to meet international competition. A wide variety of Commerce and other agency programs are directed toward this objective; however, there is a compelling need for the Federal Government to develop a stronger and more comprehensive industrial analysis capability.

The Department will be taking several steps to strengthen its resources devoted to industrial analysis. The cornerstone of this upgraded capability will be the new Bureau of Industrial Analysis. Located in the Chief Economist's Office, it will be modeled after our highly regarded Bureau of Economic Analysis and will provide upgraded and highly professional industry analysis to serve the needs of government policy-makers and industry.

**SUMMARY AND CONCLUSIONS**

By consolidating trade operational responsibilities in an enhanced Department of Commerce and upgrading our sectoral analysis capability, the Administration's trade reorganization plan draws upon a major Departmental strength--the ability to link trade to policies affecting domestic industries. Trade problems are industry problems, and until we address them as such, we cannot expect a fundamental improvement in our trade performance.

These problems will increase in the 1980's. To meet the challenge, we must coordinate our efforts in such a way as to gain maximum advantage from the MTN, and adopt measures that will help U.S. industries to increase their competitiveness.

The reorganization provides the essential ingredients: a higher government-wide priority on trade; concentration of non-agricultural trade implementation responsibilities in one Department; clearer channels for future trade policy decisions; and a heightened attention to the analysis and solution of the problems facing U.S. industry.

This reorganization will result in a considerably strengthened Department of Commerce--one well equipped to monitor and enforce trade rules in a manner which will protect U.S. rights while ensuring that U.S. obligations are carried out; and one better equipped to promote, foster, and develop the foreign trade of the United States.

Thank you, Mr. Chairman.

Mr. Brooks. Our next witness is Ambassador Reuben Askew. He is the current Special Trade Representative. His appointment was confirmed by the Senate on September 25, 1979.

He is a lawyer. Prior to his election as Governor of Florida, he served in several elected offices in Florida. He also spent 2 years with the Air Force during the Korean conflict.

We look forward to your testimony, Mr. Ambassador.

We would welcome a summary of your written statement which would be included in the record of these hearings, but you proceed as you see fit.

We are delighted to have you here. You might introduce the people who are accompanying you, if you would.

**STATEMENT OF AMBASSADOR REUBEN O'D. ASKEW, SPECIAL TRADE REPRESENTATIVE; ACCOMPANIED BY WILLIAM B. KELLY, ASSOCIATE SPECIAL TRADE REPRESENTATIVE; ROBERT CASSIDY, GENERAL COUNSEL; AND RICHARD HEIMLICH, ASSISTANT SPECIAL TRADE REPRESENTATIVE**

Mr. ASKEW. Thank you very much, Mr. Chairman.

On my left is Bill Kelly, who is the Associate Trade Representative. Bob Cassidy, the General Counsel, and Dick Heimlich, the Assistant Special Trade Representative, are on my right.

I have a statement that I prepared and that I would like to submit for the record, with your permission, Mr. Chairman, and simply give you a couple of thoughts of mine as I approach this responsibility and respond to whatever questions the chairman or the subcommittee might feel appropriate.

Mr. Brooks. Without objection, your prepared statement will be included in the record.

Mr. ASKEW. The Congress, for years, has been concerned about the necessity to have a singular principal advocate for trade, feeling that trade has not been given the priority that it should.

As we went into the multiple MTN rounds of the GATT, in 1962, the Congress felt strongly that there should be a principal person to handle these negotiations, and then in 1974 they upgraded that position to Cabinet level. I think that proved to be a very wise move. I think without that type of principal representation it would have been difficult to see the accomplishments of the recent Tokyo round.

The office I now hold has been successful for what it has been asked to do, generally speaking. However, it has been successful within the limited sphere of multilateral trade negotiations. Now, I think what this plan suggests is that we take a vehicle that has been generally successful in a more limited way and try to apply it to an expanded authority, particularly trade coordination, policy development, and direct investment.

I am not without some appreciation of the inherent difficulty in attempting to try to make some of these new procedures work as they relate between different departments. There is some very strong feeling that there should be a single department. At first blush, I believe that has some appeal. The problem with it, from my standpoint, is that

there are so many different phases of our governmental activity that reach into trade that to assume you could have one person in charge of that and therefore indirectly in charge of so many other governmental activities is to assume something that would simply break down in terms of operation.

If you could recognize that, Mr. Horton, I really think it could solve some of the problems in terms of the split between coordination and implementation.

However, this plan envisions that the best way to try to accomplish the necessary reorganization is to continue what proved to be generally successful in the MTN. That is to have a neutral broker. Because you are going to have differences within your spheres of government, they are going to get to the President and he is going to have to reconcile them. Somewhere along the line, that President has got to have some staff input, just as the chairman and each Member of the Congress must have when they have conflicting differences within their own constituencies and their own staffs.

So, the idea of having a neutral broker close to the President, with the clout of the Executive Office of the President, was conceived, and I think it has worked. I think that is exactly what we are trying to transpose under this plan.

It, again, is not without some difficulties. When you start trying to deal with some areas where the State Department has a vital interest, it is going to require those of us principally involved, in good faith, to try to work out some operating procedures so we can make sure that all of the input that is necessary for that particular standpoint goes into the total process. Then, if there are any differences, of course, the President can reconcile that decision. The same is true in Treasury and in Commerce.

Having been Chairman of the President's Advisory Board on Ambassadorial Appointments, in which I served for close to 3 years, I saw the need to have good coordination on behalf of the principal person representing the President in each country—that is, the ambassador. However, you do have situations, such as in Geneva, where you have multiple representation.

I think the concern really should be of an insistence on the part of the Congress to the Executive to have better coordination so that that ambassador always knows essentially what is going on, so that that ambassador is never put in the position of failing to understand, or appreciate, or know what is going on when he is representing another phase of the executive branch of the Government.

I think that, more and more, this is exactly what the State Department is trying to do. And the same is true of the other departments.

As we seek to fulfill our obligations in these areas where we are being assigned jurisdiction previously held by other departments, we are simply going to have to make it work and to try to create and sustain effective human relationships. That is essentially what we are seeking to do in this whole area.

I think the day has passed when the United States can afford to have a passive trade policy. I think we need an aggressive trade policy. The figures that Mr. Horton cited are impressive. The world, however, has changed. We helped bring this changing world about in order



to help others be competitive with us. That was in our best interest. But now the time has come when, if we negotiate a treaty, in my opinion, we should not be talking just about making sure that we assume our full obligations. We ought to be talking about closely monitoring everything that happens to insure that we also enforce our rights under that agreement.

That is essentially what the President is looking to, I think, and what the Congress is looking to, in the Office of STR.

As I told the Committee on Finance in the Senate, I do not profess to be a trade expert. But as you gentlemen know who are called upon to make a multitude of decisions, the final analysis is one of judgment. An important element of foreign trade always has to be the domestic economic face of a given issue—how it affects us in this country, how it affects our jobs, how we can do a better job of exporting, and how we can do a better job of competing against imports.

This reorganization plan envisions that we are going to take the operating relationship of the MTN and give it additional responsibility. There is no way you can put down in writing exactly how everyone is supposed to act. A lot is going to have to depend on the good faith of the people in place and their commitment to the Congress, who passed the law, to make it work.

Mr. Brooks. Thank you very much.

I have a couple of questions.

Would you describe the role of the Special Trade Representative vis-a-vis the Trade Policy Committee? Do you plan to discuss fully all trade policy initiatives with all members of the Trade Policy Committee?

Mr. ASKEW. Mr. Chairman, the Trade Policy Committee is essentially an institutional mechanism designed to assure input on behalf of everyone who is involved on the TPC.

It is true, from my understanding, that this Trade Policy Committee has not met frequently in terms of the principals. However, the principals have input on a staff level, and the very fact that the staff tries to reconcile some of these issues consistent with the parameters of what the principals set out does not necessarily mean that a principal is not having any input.

As I understand it also, this committee has met two or three times in the past year.

It would be my feeling that it would meet when there was any issue of sufficient importance to necessitate the presence of the principals. But we would try to utilize the system to try to work out any differences short of that.

Mr. BROOKS. Mr. Ambassador, the President's reorganization plan gives you primary responsibility for developing and coordinating direct investment matters insofar as they relate to international trade policy. How do you view this role, and what do you plan to do in it?

Mr. ASKEW. I think it is an important role, Mr. Chairman, and one that we are going to have to pursue in a new light.

I am not sure whether or not this country has a policy, per se, in this area. I say this particularly as some of the countries now are negotiating bilateral agreements on direct investment. Germany has concluded such agreements, Switzerland and several others, including the

United Kingdom have done so as well. We would try to negotiate a situation in which any foreign investment of ours going to other countries would be properly protected with some understanding of how we were going to treat them and they were going to try to treat us. This area requires attention. It is an area that I do not believe has been given all the attention it should. To the extent that we can, we intend to do that.

Mr. BROOKS. With the advice of the Trade Policy Committee, the Trade Representative is empowered to issue "policy guidance" to departments and agencies on the expansion of exports from the United States. Will this guidance control the operations of the Departments of Commerce, Agriculture, or Energy?

Mr. ASKEW. Obviously not, sir. No, it would not. What it would do, hopefully, is to set a policy that they could follow through and implement. But there is no intent on the part of this reorganization plan to put the STR in a position to be able to control the activities of any department.

Mr. BROOKS. As Vice Chairman and voting member of the board of the Overseas Private Investment Corp., do you plan to take an active role in the business of OPIC?

Mr. ASKEW. Yes, sir.

Mr. BROOKS. Do you plan to assign personnel abroad, other than in Geneva as mentioned in the President's message accompanying the reorganization plan?

Mr. ASKEW. There has been a good deal of discussion of this possibility by the National Governor's Association. I think Senator Roth has some strong feelings on this subject. But right now, the supplemental request we have at OMB does not envision any overseas operations other than the GATT in Geneva. I think the area has some validity for consideration, but presently our recommendations do not take in numbers in that regard.

Mr. BROOKS. I have a few other questions I will submit for you to give me written answers, hopefully in time for our report, Governor.

Mr. ASKEW. Yes, sir.

Mr. BROOKS. Without objection, they will appear in the record at this point.

[The material follows:]

#### STR QUESTIONS

*Question.* Do you view the Trade Policy Committee as a decisionmaking authority with specific trade policy operating responsibility?

*Answer.* No. Operating responsibilities lie with the line departments and agencies, and the USTR. The TPC is advisory, rather than a decisionmaker. The decisionmakers are the USTR and the President.

*Question.* In the event of a disagreement between the Special Trade Representative and the Secretary of Agriculture on the question of a trade initiative in the area of U.S. agricultural exports, how do you perceive your role?

*Answer.* In the event the USTR could not work out any disagreement with any fellow Cabinet officer, that officer would be free to appeal to the President.

*Question.* Under Reorganization Plan No. 3, what will be the role of the Trade Negotiating Committee?

*Answer.* The TNC is designed to provide interagency advice and guidance to the USTR on the management of international negotiations under its mandate.

Mr. BROOKS. Mr. Horton from New York.

Mr. HORTON. Thank you, Mr. Chairman.

Governor, we are happy to have you with us and to have the benefit of your testimony.

You would be given a lot of responsibility under this reorganization plan as the Trade Representative. Do you think you will have enough people to do the negotiating, coordination, and policy research that is required?

Mr. ASKEW. I certainly hope that we will, sir, and I think in the final analysis, being a part of the executive branch, you make do with what you have. I think this is an area, however, where the Congress expressed some very strong feeling in terms of making sure that it is adequately staffed and adequately funded.

Our present budget for this year is clearly inadequate. We are talking about 50 people with a budget of about \$4 million. When I read some of the charges under the proposed reorganization and the Executive order as presently being circulated, I think there is just no question that we will need sufficient people and sufficient funds, particularly travel funds, if we are to do the job.

I have been in discussion with Jim McIntyre. I happen to enjoy a very good personal relationship, as many of you do, with Jim McIntyre, having known him prior to the time that he came up to Washington. So, I have confidence that we will be able to work out something satisfactory.

I know there were some big figures being floated around. I think a lot of those figures were based on the feeling that we might be submitting overseas operating personnel other than at the GATT. As I said, we are not. But we are going to need some more people in other areas.

Mr. HORTON. As the chairman said, it is going to be important for us to have at least some ballpark figures before we go to the floor because Members are going to ask the chairman and myself on the floor and privately about this. It could endanger the reorganization plan if we do not have something.

Mr. ASKEW. Having spent 12 years in the State legislature, I can completely understand where you would not be in a position to be able to do that until we gave you that information.

I think Mr. McIntyre made it clear that he would share that information with you, and I will be working with him. Let me stress one point, though. I am not without some appreciation that I have assumed a responsibility that enjoys a substantial congressional base, and I am not totally naive in this regard in terms of utilizing that base. At the same time, I am part of the executive branch. I want to work with them any way I can. But I also want to keep faith with the Congress under the present law, making sure that we have the people to do the job.

Mr. HORTON. That is fine. Do you plan any internal reorganization?

Mr. ASKEW. Yes, sir. Right now, we are in the process of perfecting—

Mr. HORTON. Mrs. Kreps furnished us with a reorganization chart. Perhaps you could furnish us with something similar.

Mr. ASKEW. Yes, sir. I will be happy to do that.

Mr. HORTON. That would be helpful.

Mr. ASKEW. Yes, sir. We will furnish that for the record.

Mr. BROOKS. Without objection, it will appear in the record at this point.

[The material follows:]

UPGRADED SECTORAL ANALYSIS PROGRAM FOR TRADE AND COMMERCE

The Department will establish a major capability for industrial analysis, policy development and selected industry assistance efforts. The cornerstone for this capability will be a new Bureau of Industrial Analysis modeled after the Bureau of Economic Analysis which has a reputation for objective, highly credible macroeconomic analysis and reporting. Like BEA, the Bureau of Industrial Analysis (BIA) will report to the Department's Chief Economist and have parity with BEA and the Census Bureau. The components of the Department's new industrial program, beginning with BIA, are as follows.

Bureau of Industrial Analysis (BIA)

The Bureau of Industrial Analysis will provide, to a variety of clients, objective and professional sector-specific and cross-sector information and analysis. Its principal role will be to serve the analytical support needs of policymakers in Trade and Commerce, in the Executive Office of the President, and in other Departments and agencies. It will also provide industry specific information to the Under Secretary for Trade for export development targetting, short supply, import administration and industrial mobilization requirements. It will provide the data base, on a micro-economic basis, which policymakers may use in considering issues and proposals directed at or affecting particular industries.

The principal activities of BIA will include preparation of the following:

- o current and projected data on industrial prices, production, inventories, etc. at various levels of aggregation;
- o information on industrial operations, industry structure, industrial processes, interindustry relationships, plant capacity, etc.;
- o assessments of economic conditions in various industries, including analyses of the impact of such factors as labor conditions, trade development, productivity, capital availability and others on industrial performance, as well as early identification of industry problems and opportunities;

- o impact analyses to be used in Federal decision-making on current policy and program issues such as legislation, EPA regulations, ITC recommendations, trade negotiating positions, energy policy proposals, etc.;
- o sophisticated research on issues such as productivity, capital investment and industry structure.

BIA will have a staff of approximately 190 people, primarily economists and industry specialists. Approximately 140 positions will be filled with qualified Departmental staff. Approximately 50 positions will be filled through Secretarial reprogramming of vacant positions throughout the Department.

The head of BIA will be an individual with recognized credentials and management ability selected in consultation with the Government's top economic policy advisors. Similarly qualified officials will be recruited to fill 5 or 6 career SES second-level management positions within the Bureau.

#### Assistant Secretary for Policy

The Office of the Assistant Secretary for Policy will provide policy analysis on industry and cross-industry issues. The Office will be augmented by the transfer of resources from ITA's Office of Business Policy Analysis. This staff of approximately five will be combined with other Policy positions in a new Office of Industrial Policy Analysis. This Office will be responsible for:

- o analyzing and making policy recommendations on cross-industry issues such as taxation, anti-trust, labor issues and policies affecting small business
- o making policy recommendations regarding the Government's undertaking actions in support of endangered or emerging industries.

- o analyzing the policy and operational tools available to meet industrial development needs, and determining what institutional mechanisms, such as tax legislation, regulatory reform, direct assistance, and others, are most appropriate.

#### Assistant Secretary for Science and Technology

The Assistant Secretary for Science and Technology now has staff capability for assessing industry-specific technology conditions, which are becoming an increasingly important aspect of our overall economic and competitive position. To supplement this capability, 7 positions from the former BPSD Office of Business Policy Analysis will be transferred to the Assistant Secretary to provide needed support for comprehensive reviews of the technological implications of Federal environmental regulations. In addition, the Assistant Secretary will establish an Industrial Development Projects Staff. This staff will be made up of 13 positions transferred from the Office of Business Programs (formerly part of the abolished Bureau of Domestic Business Development). This staff will draw upon the analytical products of the Bureau of Industrial Analysis and the scientific/technological support available from the National Bureau of Standards, the Patent and Trademark Office and the National Technical Information Service in order to develop options for specific programs to aid distressed or emerging industries. In this way, industry assistance programs, such as those involving the footwear, steel and jewelry industries, will have an institutional base in the Department, and be better able to take advantage of all of its policy, industrial analysis and operational resources.

#### Under Secretary for Trade

The Department's proposed new trade authorities have yielded a reorganization proposal establishing an Under Secretary for Trade under whom all trade development, trade policy and import and export administration programs will be organized. The Bureau of Industrial Analysis will be a prime supplier of industrial data and interpretation to the Under Secretary in the management of all of these programs. However, a

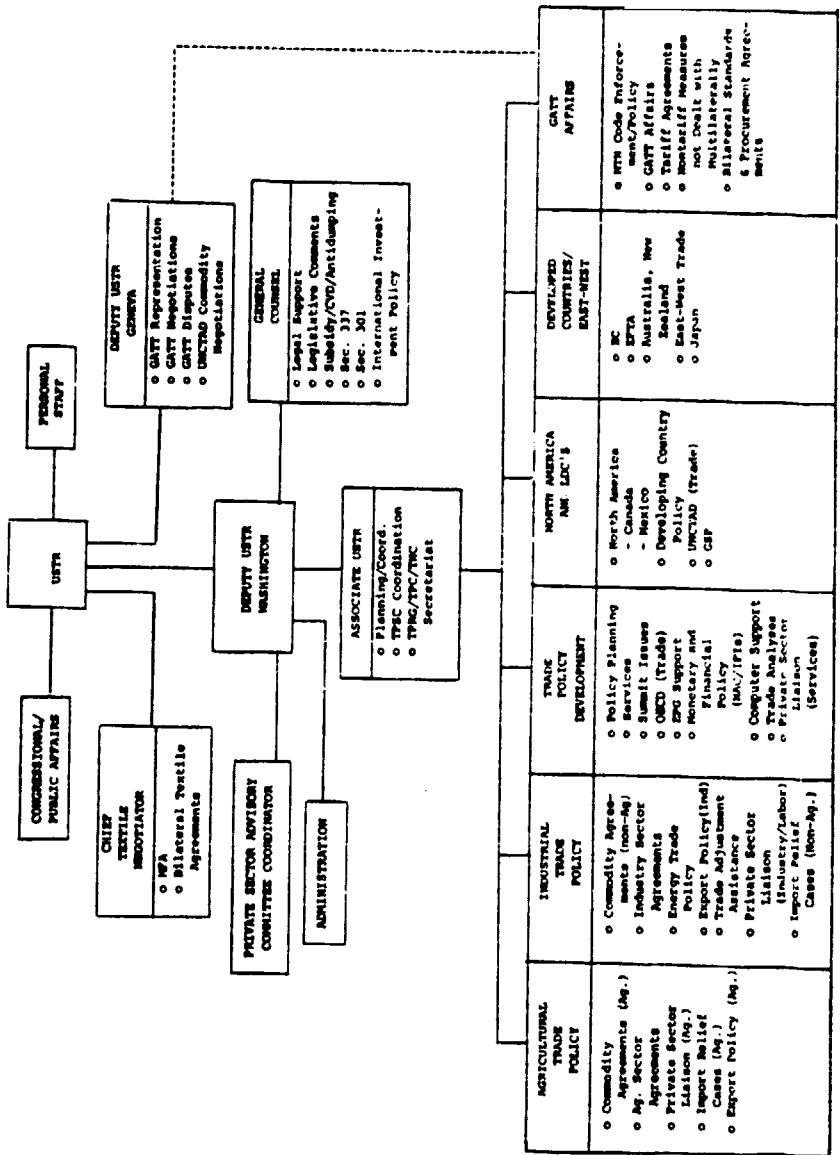
cadre of 30 people will be assigned to the Under Secretary for Trade for industrial work of special importance to trade program management. This staff will operate on a project basis, drawing upon the central capability of BIA and tailoring its analyses to import policy needs, export promotion planning, MTN implementation, etc.

Deputy Under Secretary for Regional Affairs

While recognizing the primary role of its industrial analysis efforts in supporting Federal Government policy and program decisionmaking, the Department has a continuing obligation to meet the business community's needs for information and assistance. To meet this obligation, the Department will transfer resources in the former BDDO Office of the Ombudsman to the Deputy Under Secretary. This staff will serve as the focal point for business inquiries, routine assistance and special projects such as conferences and seminars on business related topics.







**Mr. HORTON.** Where is your new office physically going to be located?

**Mr. ASKEW.** It will continue to be physically at 1800 G Street, NW., suite 720, which is the office that was set up for Mr. Strauss. However, this is another issue that I will be discussing with Mr. McIntyre. We obviously will need some additional space; we really do not have enough space now for our existing staff. As we anticipate fulfilling the responsibilities of expanded authority under the reorganization, obviously, we are going to have to have some new space. Where that will be, I do not know, sir.

**Mr. HORTON.** I have some other questions also that I would like to submit and ask you to give us a written answer for the record in order that we can proceed and not take up any more time at this hearing.

**Mr. ASKEW.** Certainly.

**Mr. BROOKS.** Without objection, they will appear in the record at this point.

[That material follows:]

## QUESTIONS SUBMITTED BY MR. HORTON

QUESTION: Besides the Commercial Attaches, how many people will actually be transferred from one agency to another? Will you supply us with a detailed list of the number and from what agency they will be transferred and to where?

ANSWER: In addition to the commercial attaches from the State Department, we expect that about 219 positions will be transferred from Treasury to Commerce: (1) 14 from the Office of Tariff Affairs; and (2) 205 from the Customs CVD/AP investigative unit. The investigative unit figure includes the 130 positions Congress recently approved to handle the expected growth in the countervailing and dumping caseload.

Up to 15 positions may be transferred to USTR from State and up to 5 positions may be transferred to USTR from Treasury.

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QUESTION: This is a question regarding the new Deputy Secretary of Commerce. I assume that since the Under Secretary of Commerce position is abolished that this is simply a title change with the new "Deputy" becoming the number two person at the Department of Commerce, but it is not clear. Usually there is some language such as "the Deputy shall act in the absence of the Secretary" or the like, but that is missing. Could you explain the new position.

ANSWER: The new Deputy Secretary of Commerce will be the second-ranking official of the Department. Section 2 of the Reorganization Plan No. 2 of 1950 authorizes the Secretary to delegate any function and we believe that this is adequate authority for the Secretary to designate the Deputy Secretary as second-ranking official. We expect that an appropriate secretarial delegation will be issued when the first Deputy Secretary takes office.

**QUESTION:** In the Message it is very clear that one of the new Assistant Secretaries of Commerce will be for "Trade Administration" and the other for "Export Development." Yet, in the actual Plan, these titles are not assigned. Can you tell us why they are not designated?

**ANSWER:** The reorganization plan denominates the new Under Secretary as Under Secretary for International Trade. In keeping with the general practice regarding Assistant Secretaries of Commerce, the plan does not name the two new Assistant Secretaries. They will be named administratively by the Secretary, as is now the case with regard to the Assistant Secretary for Industry and Trade (this position will be the third Assistant Secretary reporting to the Under Secretary for International Trade).

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**QUESTION:** Exactly what are your plans for the Commercial Attaches? Your message says that "initially" they will be transferred to the Commerce Department, yet the message continues that "over time" ... "undoubtedly the Commerce Department will review the problem. I think that it is unfair to leave these public servants left dangling with an "undoubtedly something will be done" response.

**ANSWER:** All 162 existing full-time commercial positions are to be transferred at once. Any additions will be made incrementally and probably over quite a few years; we expect no sudden changes of significance once the initial transfer occurs.

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**QUESTION:** Who will be the actual negotiators in commodity negotiations? Will it be negotiators from the State Department, the new STR, or perhaps both?

A follow-up question to that is, who will be in charge of commodity negotiations? I assume that it is the new STR.

**ANSWER:** The U.S. Trade Representative will have primary authority and responsibility for commodity negotiations. USTR will draw heavily on the expertise of

the State Department in commodity negotiations, though, and may call upon State to lead such negotiations when nontrade-related issues are presented.

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**QUESTION:** Who will be the actual negotiators for energy negotiations, the State Department, the Department of Energy or the new STR, or some combination?

A follow-up question to that is, who will be in charge of energy negotiations? Again, I assume that it is the new STR.

**ANSWER:** The Secretary of Energy and State, both sitting on the Trade Policy Committee, will advise the Trade Representative on energy trade policy, with the right to appeal directly to the President if either or both should disagree with the decision of the Trade Representative. Negotiations will be conducted by all three agencies at different times, but policy guidance for negotiating positions will come from the Trade Representative (acting with the advice of the TPC).

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**QUESTION:** Can you supply us with a list of exactly what new Multilateral Trade Negotiations (MTN) implementation functions are switched to the Commerce Department?

**ANSWER:** Commerce, a member of the TPC, will coordinate with the Trade Representative on MTN implementation. It will be responsible for functions that are best handled by constituency-oriented agencies, including:

- ° educational and promotion programs,
- ° technical assistance to the private sector,
- ° consultations with private sector advisory committees,
- ° data base development and maintenance,
- ° staffing for formal complaints,
- ° information dissemination,
- ° analytical support,
- ° developing basic information on foreign laws, regulations and procedures affected by MTN agreements,

- ° monitoring foreign compliance, and
- ° assisting U.S. exporters in qualifying for foreign government procurement opportunities, identifying problems, securing certification, etc.

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QUESTION: Concern has been expressed that since the Plan does not explicitly mention the "service industry" that this might be overlooked, yet it is one of our few bright spots in the trade area providing us with a surplus of \$23 billion in our balance of payments accounts in 1978. I have a two-part question. First, is the "service industry" included in your trade reorganization; then, second, what agency or group will be in overall charge of the service industry aspects of trade?

ANSWER: Trade in services definitely is included in the term "trade." As in other areas, the Trade Representative with the advice of the Trade Policy Committee, will establish policy, and line agencies -- particularly the Commerce Department -- will carry it out.

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QUESTION: What is your understanding of the relationship between STR and the Trade Policy Committee? Will you or the Committee be the final authority on trade policy?

ANSWER: The Trade Policy Committee will be the interagency mechanism through which each interested agency will have its legitimate input. The TPC will be advisory to the Trade Representative; of course, if a member disagrees with his final recommendation, that member is free to appeal to the President. The President is the final authority.

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QUESTION: Could you explain to us the exact function of the Trade Negotiating Committee?

ANSWER: The function of the Trade Negotiating Committee is to manage negotiations in accordance with TPC and USTR policies. It will develop negotiating tactics and strategy within the policy guidance laid down through the TPC and the USTR. It will be made up solely of the departments actually involved in the negotiating delegations.

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QUESTION: How many people do you think will be required for the STR office in Geneva?

ANSWER: Approximately 11.

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QUESTION: You have been charged with the lead responsibility for trade and commodity matters in the Organizations for Economic Cooperation and Development (OECD). How many people will that take, will they all be STR personnel, and where will they be located -- in Washington or overseas?

ANSWER: STR will have people involved in OECD trade and commodity matters; they will be STR personnel located in Washington; we do not presently expect to have STR people working at the U.S. mission to the OECD.

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QUESTION: You are also charged with the lead responsibility for the United Nations Conference on Trade and Development (UNCTAD). How many people will that take, will they all be STR personnel, and where will they be located?

ANSWER: We expect 8 people to spend a substantial proportion of their time working on UNCTAD trade and commodity matters. Most will be STR personnel in Washington; however, our delegation in Geneva will also have 2 STR personnel working on trade and commodity matters in UNCTAD.

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QUESTION: You have been charged with policy in virtually all trade matters from import remedies, to East-West trade, to energy trade, etc. Do you intend to do all "in-house" policy research, or do you intend to rely on the line agencies and coordinate policy?

ANSWER: We will rely on line agencies to do much of the policy research.

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QUESTION: What is your understanding of the role of the new Deputy Secretary of Commerce? Is that simply a title change with the Under Secretaryship that is being abolished?

ANSWER: The reorganization plan provides for the establishment of a Level III Under Secretary for International Trade, who will be responsible for trade matters. Legislation pending would provide also for a Level III Under Secretary for Economic Development. The Administrator of the National Oceanic and Atmospheric Administration is also at Level III. The net result would be four Level III executive officers in the Department.

It makes sense, therefore, to upgrade the existing Under Secretary to a Deputy Secretary to avoid sensitive problems or precedence among program executives. This would accord with the existing management structure of the Departments of Defense, State, Treasury, Justice, Agriculture, Transportation, and Energy, each of which has a Deputy Secretary.



**QUESTION:** In the Message, the two Assistant Secretaries are designated, one for "Trade Administration" and the other for "Export Promotion," yet they are not so designated in the Plan. Is there a reason for that from your perspective? Would you object to them being so designated?

**ANSWER:** Under the reorganization proposal, attention to trade matters will become a principal mission of the Department. The creation of the position of Under Secretary for International Trade ensures that the vital area of trade policy implementation will receive the kind of day-to-day attention at the very highest level of this Department that it both demands and deserves. There will be added to the Department 2,500 people, including approximately 1,000 who are being transferred from the Departments of Treasury and State. Moreover, in our proposal, we have identified three major areas of trade responsibilities -- trade development, the administration of import and export programs, and international economic policy -- each of which warrants high level management and leadership at the Assistant Secretary level (only two additional positions are needed, as there is already an Assistant Secretary for Industry and Trade).

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**QUESTION:** I have a series of follow-up questions regarding these Assistant Secretaries. First, the Plan and Message lists two, yet the proposal submitted by you lists three. Can you explain where this third one came from?

**ANSWER:** Only two Assistant Secretary positions are needed since authority already exists for one Assistant Secretary (now the Assistant Secretary for Industry and Trade).

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**QUESTION:** Second, if the third Assistant Secretary is simply a change in name for the present Assistant Secretary for Industry and Trade, won't that cause a problem since he has some domestic industry duties?

ANSWER: In recent years, most of the focus of the Industry and Trade Administration has been on international and export issues. We anticipate the ability to handle properly those few matters which are purely "domestic" through some functional transfers to the new Bureau of Industry Analysis under the Chief Economist, the Assistant Secretary for Science and Technology, the Assistant Secretary for Policy, etc.

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QUESTION: Third, why are the names of the Assistant Secretaries different from those listed in the President's Message? The "Trade Administration" title is left unchanged, but "Export Promotion" seems to have disappeared.

ANSWER: Some titles have been changed slightly to more accurately identify the responsibilities of the particular assistant secretary.

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QUESTION: Can you explain to us what career pattern you envision for the Commercial Attaches?

ANSWER: Members of the Foreign Commercial Service will have career tracks available to them in the Department of Commerce.

As Foreign Commercial Service Officers, they can aspire to chief of commercial section positions, which in major embassies will carry with them Counselor of Embassy titles and responsibilities. In embassies with active commercial programs, such as Tokyo, Jidda, London and Bonn, counsel of embassy positions will have significant management and trade policy responsibilities and will have Senior Executive Service-level grades. It is also anticipated that, on a selective basis, these officers may be considered for Principal Officer

positions at consulate generals and for Deputy Chief of Mission and Chief of Mission (Ambassador) positions at posts with major commercial programs.

Within the Department, the full range of junior to senior positions will be available to Foreign Commercial Service Officers. Career patterns for these officers envisage assignments within the Department and its domestic field officers which will prepare them to compete on equal terms, with domestic counterparts, for the Department's senior career positions.

**Mr. HORTON.** Thank you very much, Governor, and best wishes to you in the new responsibility that you have. It is an awesome responsibility but a very important responsibility for the good of this country.

**Mr. ASKEW.** Mr. Horton, I think it is; I think, when we look at where we are in terms of the world and at the diminishing percentage of our GNP as far as exports are concerned, and when we see what is happening to us in terms of the dollar, particularly our tremendous trade imbalance, we must realize that we are all going to have to pull together.

What impressed me most in this area as an outsider at the time of the congressional approval of the trade agreements was what I thought was a unique working relationship on a bipartisan basis in both Houses of the Congress, working with the Congress and the President, and, in particular, taking into consideration the meaningful input by the private sector, which I think this kind of cooperation will continue to be critically important to the success of the operation of this office, the same as it was in the accomplishment of the MTN.

**Mr. BROOKS.** Thank you, Mr. Horton. The gentleman from Florida, Mr. Fascell.

**Mr. FASCELL.** Thank you, Mr. Chairman.

I am delighted to welcome the Governor here today and to say that to his new job of such awesome responsibilities, the Governor brings a wealth of legislative and administrative experience. In my judgment—and I say this with personal knowledge—the Governor is certainly the right man for such an important position in the Federal Government.

One of the first changes of this position will be to maintain a relationship with the Congress. I would like to ask the Governor how he views that.

Since you will be directly in the Office of the President, you could avail yourself, I suppose, of the cloak of the President in your availability to the Congress. Yet the position you have undertaken requires so much internal coordination and such a close relationship with the Congress. How do you, in general terms, perceive that?

**Mr. ASKEW.** A year from now, I will tell you for sure exactly how it works. But I perceive that my responsibility is one of working for the Congress as well as for the President. I understand the constitutional basis of this whole area, and I guess one of the things that attracted me to accept this responsibility, Mr. Fascell, was the fact that there was a congressional base, particularly in working with the House Ways and Means Committee, and Trade Subcommittee, and the other relevant committees as well as with the Senate Committee on Finance and their subcommittee. To have the congressional base to try to do the job well as well as to enjoy status in the Cabinet of the President with only a relatively small staff—all this attracted me.

I do not profess to have all the talent that Bob Strauss has in terms of being able to work with all of the Members of the Congress. However, I know that without such a relationship I will not be able to do the job effectively. So I will try to work with you very closely. Beyond that, I look forward to our relationship, not only in terms of principles

but also in terms of our staffs, which I think also will be critically important.

Mr. FASCELL. Thank you very much.

Mr. BROOKS. We want to say, Mr. Ambassador, we certainly appreciate your testimony here, and we are delighted to have you. We appreciate the candid and helpful responses from all the witnesses.

The hearings will continue on Thursday when Congressmen Vanik, Long, and several witnesses from private businesses and organizations will testify.

I am hopeful that we can mark up the bill on Thursday. I do not think that will take too long. I would like to mark it up then, and I will put the members on notice that we will need to have them all here for that procedure.

The subcommittee is adjourned until 9 :30 a.m., on Thursday.

[Mr. Askew's prepared statement follows:]

REMARKS OF AMBASSADOR REUBIN O'D. ASKEW  
TO THE SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY

MR. CHAIRMAN AND MEMBERS:

I AM PLEASED TO HAVE THIS OPPORTUNITY TO SHARE WITH  
YOU MY VIEWS ON PRESIDENT CARTER'S REORGANIZATION PLAN #3,  
WHICH RESTRUCTURES THE TRADE FUNCTIONS OF THE UNITED STATES  
GOVERNMENT.

DIRECTOR McINTYRE HAS DESCRIBED THE PLAN, SO I WILL  
CONCENTRATE ON HOW IT WOULD AFFECT MY OFFICE, THE RENAMED  
UNITED STATES TRADE REPRESENTATIVE (USTR).

FIRST, HOWEVER, IT IS WORTH NOTING FOR THE RECORD  
HOW THIS OFFICE HAS EVOLVED. THE OFFICE WAS CREATED BY  
THE CONGRESS IN THE TRADE EXPANSION ACT OF 1962 TO PROVIDE  
A MECHANISM UNDER THE DIRECTION OF THE PRESIDENT FOR  
REPRESENTATION OF THE BROAD NATIONAL ECONOMIC INTERESTS  
OF THE UNITED STATES IN INTERNATIONAL TRADE NEGOTIATIONS.  
THAT MEANT WEIGHING AND BALANCING THOSE SOMETIMES CONFLICTING  
NATIONAL INTERESTS WITH THE GREATEST POSSIBLE OBJECTIVITY,  
AND WITHOUT GIVING UNDUE WEIGHT TO ANY PARTICULAR  
CONSTITUENCY OR UNITED STATES POLICY OBJECTIVE.

THE ROLE AND RESPONSIBILITIES OF THE SPECIAL TRADE REPRESENTATIVE HAVE BEEN SIGNIFICANTLY ENHANCED AND BROADENED BY THE CONGRESS AND FIVE PRESIDENTS SINCE 1962, UNDER THE TRADE ACT OF 1974 AND THE TRADE AGREEMENTS ACT OF 1979. THE TRADE AGREEMENTS ACT OF 1979 MANDATED THE EXECUTIVE REORGANIZATION OF TRADE FUNCTIONS NOW BEFORE THIS SUBCOMMITTEE.

I SEE THE NEW OFFICE OF UNITED STATES TRADE REPRESENTATIVE AS A DIRECT AND LOGICAL OUTGROWTH OF THE BASIC CONSIDERATIONS WHICH LED TO ITS CREATION 17 YEARS AGO. THOSE CONSIDERATIONS WERE THAT:



-- THERE SHOULD BE CLOSE CONSULTATION AND COOPERATION  
AMONG THE PRESIDENT, THE CONGRESS, AND PRIVATE ENTERPRISE  
IN DEVELOPING AND CONDUCTING TRADE POLICY;

-- LEGITIMATE CONSTITUENT TRADE INTERESTS OF THE  
SEVERAL EXECUTIVE DEPARTMENTS AND AGENCIES SHOULD BE  
COORDINATED; AND

-- THE NATION NEEDS A SINGLE, COHESIVE FOREIGN TRADE  
POLICY WHICH IS TRULY REPRESENTATIVE OF THE OVERALL  
NATIONAL ECONOMIC INTEREST.

I WOULD LIKE TO NOTE, MR. CHAIRMAN, THAT THIS ADMINISTRATION HAS WORKED VERY CLOSELY WITH THE CONGRESS IN DEVELOPING THIS PLAN. THE VIEWS OF ALL INTERESTED MEMBERS WERE SOUGHT, CONSIDERED, AND, AS MUCH AS POSSIBLE, REFLECTED IN THE PRESIDENT'S PROPOSAL.

UNDER THIS PLAN, THE USTR WOULD BE THE PRINCIPAL TRADE SPOKESMAN FOR THE PRESIDENT ON INTERNATIONAL TRADE, COMMODITY, AND DIRECT INVESTMENT POLICY, REPORTING DIRECTLY TO THE PRESIDENT. THE OFFICE WOULD CONTINUE TO CARRY CABINET RANK, WITH A SMALL STAFF LOCATED IN THE EXECUTIVE OFFICE OF THE PRESIDENT.

THE USTR WOULD CONTINUE TO CHAIR THE INTERAGENCY TRADE POLICY COMMITTEE AND ITS SUBORDINATE GROUPS, WHICH PROVIDE ADVICE TO THE USTR, AND THROUGH WHICH POLICY IS COORDINATED. BUT THE SCOPE OF THE TRADE POLICY COMMITTEE WOULD BE WIDENED SUBSTANTIALLY TO INCLUDE ALL INTERNATIONAL TRADE, COMMODITY, AND DIRECT INVESTMENT POLICY MATTERS.

THE USTR WOULD SERVE AS THE FOCUS FOR INTERNATIONAL TRADE POLICY DEVELOPMENT, COORDINATION, AND NEGOTIATION. THE OFFICE WOULD BE RESPONSIBLE FOR DEVELOPING POLICIES ON IMPORT REMEDIES, EXPORT EXPANSION, EAST-WEST TRADE, COMMODITIES, INTERNATIONAL INVESTMENT POLICY, ENERGY TRADE POLICY, AND BILATERAL TRADE RELATIONS.

THE USTR WOULD ALSO PLAY A SUBSTANTIAL ROLE IN THE FORMULATION OF NATIONAL POLICY IN OTHER AREAS WHICH HAVE MAJOR TRADE IMPLICATIONS.

THE USTR WOULD BE RESPONSIBLE AS WELL FOR REPRESENTING THE UNITED STATES TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT) AND ON TRADE, COMMODITY, AND CERTAIN INVESTMENT MATTERS BEFORE THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD) AND BEFORE THE UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD).

IN RECOGNITION OF THE INCREASING IMPORTANCE OF  
SERVICE EXPORTS TO THE U.S. ECONOMY AND THE U.S. BALANCE  
OF PAYMENTS, THE USTR WOULD EXERCISE LEADERSHIP WITH  
RESPECT TO THE INTERNATIONAL NEEDS AND TRADE PROBLEMS  
OF U.S. SERVICE INDUSTRIES. ALREADY, THE OFFICE OF  
THE SPECIAL TRADE REPRESENTATIVE IS GIVING PRIORITY  
ATTENTION TO A STUDY OF TRADE BARRIERS IN SERVICES  
BEING CONDUCTED BY THE ORGANIZATION FOR ECONOMIC  
COOPERATION AND DEVELOPMENT.

PERHAPS ONE OF THE MOST IMPORTANT NEW RESPONSIBILITIES OF THE USTR WOULD BE TO DEVELOP A MUCH NEEDED EFFECTIVE CAPABILITY TO ANALYZE AND EVALUATE TRADE ISSUES AND TRENDS IN A SWIFTLY CHANGING WORLD MARKETPLACE, ANTICIPATING THE EFFECTS OF THESE TRENDS.

OF COURSE, THE USTR WOULD BE RESPONSIBLE FOR OVERSEEING THE IMPLEMENTATION OF THE MULTILATERAL TRADE NEGOTIATION AGREEMENTS REACHED IN THE TOKYO ROUND, A TASK WHICH IS VITAL TO REALIZATION OF THE BENEFITS OF THOSE HARD-DRIVEN BARGAINS.

THE REORGANIZATION PLAN WOULD GIVE THE USTR NEW RESPONSIBILITIES IN A NUMBER OF AREAS -- SUCH AS COMMODITIES, EAST-WEST TRADE, EXPORT AND INVESTMENT POLICY. IN THESE AREAS, WE HAVE ORGANIZED INTERNALLY TO GET OFF TO A RUNNING START AND EXPECT TO BE IN EARLY CONTACT WITH THE CONGRESS AND WITH THE PRIVATE SECTOR TO DEVELOP NEW APPROACHES TO THE POLICY ISSUES INVOLVED.

IN FULFILLING THESE RESPONSIBILITIES, THE USTR WOULD WORK CLOSELY AND COOPERATIVELY THROUGH THE TRADE POLICY COMMITTEE WITH THE NEWLY ENHANCED COMMERCE DEPARTMENT, THE DEPARTMENTS OF STATE, TREASURY, AGRICULTURE, LABOR, DEFENSE, ENERGY, AND OTHER GOVERNMENTAL AGENCIES.

MR. CHAIRMAN, AS THE PRESIDENT SAID IN HIS MESSAGE TRANSMITTING THIS PLAN TO THE CONGRESS, WE NEED THIS NEW MACHINERY. AS PRESENTLY CONSTITUTED, THE OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS IS CHIEFLY RESPONSIBLE FOR ADMINISTERING THE TRADE AGREEMENTS PROGRAM. BUT MANY TRADE AND TRADE-RELATED ISSUES ARE THE PRIME CONCERN OF OTHER AGENCIES OF GOVERNMENT.

WE MUST MAKE AMERICA MORE COMPETITIVE IN THE WORLD MARKETPLACE. WE MUST ENFORCE OUR NEW TRADE AGREEMENTS, BOTH ABROAD AND AT HOME. WE MUST DEVELOP NOT ONLY A UNIFIED TRADE POLICY, BUT ALSO A STRATEGY FOR ACHIEVING OUR INTERNATIONAL COMMERCIAL POLICY OBJECTIVES. I BELIEVE THIS PLAN PROVIDES THE FRAMEWORK TO DO THE JOB.

THANK YOU. I WOULD BE HAPPY TO TRY TO ANSWER ANY QUESTIONS.



[Whereupon, the subcommittee adjourned, to reconvene at 9:30 a.m., Thursday, October 18, 1979.]



## REORGANIZATION PLAN NO. 3 OF 1979

### (Consolidate Trade Functions of the U.S. Government)

THURSDAY, OCTOBER 18, 1979

HOUSE OF REPRESENTATIVES,  
LEGISLATION AND NATIONAL SECURITY SUBCOMMITTEE  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 2154, Rayburn House Office Building, Hon. Jack Brooks (chairman of the subcommittee) presiding.

Present: Representatives Jack Brooks, William S. Moorhead, Dante B. Fascell, Elliott H. Levitas, Frank Horton, John N. Erlenborn, and Arlan Stangeland.

Also present: Eugene F. Peters, staff director; Cynthia Meadow, Wilson Abney, and Don Stephens, professional staff members; William M. Jones, general counsel; Elmer W. Henderson, senior counsel; E. Jean Grace and Patricia Floyd, clerks; John M. Duncan, minority staff director; and James L. George, minority professional staff, Committee on Government Operations.

Mr. Brooks. The hearing will come to order.

Today we are continuing hearings on Reorganization Plan No. 3 of 1979 and House Resolution 428, a resolution of disapproval submitted in compliance with the Reorganization Act.

Tuesday we heard from administration witnesses—James McIntyre, Director of the Office of Management and Budget; Mrs. Juanita Kreps, Secretary of Commerce; and Ambassador Reubin Askew, Special Trade Representative.

We will hear today from congressional witnesses and from representatives of private industry.

Mr. Horton?

Mr. HORTON. Thank you, Mr. Chairman.

Since this trade reorganization plan now before us is so important, I am glad that you scheduled another day of hearings in order that we can get other opinions on the proposal. It is nice to hear administration witnesses, but they are, after all, testifying on their own plan.

I am particularly pleased that the lead-off witness is Charles Vanik, the very distinguished chairman of the Trade Subcommittee of the Ways and Means Committee. Since he is the one who will be working with this proposal, I look forward to hearing his views.

I am also pleased to see testimony from Congressman Gillis Long. He had his own proposal and has spent so much time on trade reorganization that his opinions of the plan are welcomed.

Finally, I am pleased to see several witnesses from the private sector. Since one of the main purposes of this plan is to increase trade exports, I look forward to hearing their views.

Mr. Brooks. Our first witness this morning is Congressman Charles A. Vanik, our distinguished colleague from Ohio.

Congressman Vanik has a long-standing interest in trade issues. As chairman of the Subcommittee on Trade of the Ways and Means Committee, Congressman Vanik was instrumental in forging the multi-lateral trade negotiation agreement legislation which was signed into law earlier this year.

Congressman, we sincerely appreciate your interest in the reorganization plan, and your help and advice up to date has been invaluable. We look forward to your testimony.

#### **STATEMENT OF HON. CHARLES A. VANIK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO**

Mr. VANIK. Mr. Chairman, I ask unanimous consent to put my entire written statement into the record at this point. Then I will excerpt from it.

Mr. Brooks. Without objection, it is so ordered.

Mr. VANIK. I very much appreciate the opportunity to appear before your subcommittee on the President's plan to reorganize certain trade functions of the Government.

This occasion brings to mind the recent high degree of cooperation between the Committee on Government Operations and its chairman and our Subcommittee on Trade of the Committee on Ways and Means in the development and approval of the Trade Agreements Act of 1979. I think it was a monumental piece of legislation.

One of the things we can look at with pride as we see the Senate controversy on SALT is the way we are able to develop this very complicated piece of legislation to get it through both houses of the Congress by overwhelming majorities.

Because we had a consultation, not only between our committees and between the various legislative groups that were involved in the legislation but also because we consulted with the industrial, labor, and agricultural communities of this country, we were able to hold controversy at a minimum. If we had not used these procedures that are provided in the Trade Act of 1974, we might have found ourselves in the same kind of dilemma that the Senate finds itself in today in its consideration of SALT.

It was a very extraordinary procedure that worked out a consensus.

Mr. Chairman, the central thrust of trade programs and operations now more than ever before must be commercial in orientation.

The U.S.-producing industries and service enterprises must be afforded the opportunity to compete in an atmosphere of expanding and fair trade.

This is critically important because of our need to have a favorable trade balance.

Most of the trade statutes which seek open and fair opportunities and conditions for American business, producers, and consumers, in cooperation with our trading partners have been the object of close scrutiny under our various committees.

It is in this context that I would like to discuss certain aspects of the trade reorganization plan.

First, we support the President's reorganization plan. It is a needed step in improving the coordination, development, and execution of trade policy. In particular, it better capitalizes on the potential for export sales so sorely needed in the face of our unacceptable but continuing trade deficits.

The specifics of new responsibility for the U.S. Trade Representative are set forth in section 1(b), subparagraphs (2), (3), and (4).

It should be made clear that in consideration of the President's trade reorganization plan, the duties of the Special Representative for Trade Negotiations set forth in section 141(c) of the Trade Act of 1974 are to continue in law and in fact.

Specifically, subsection (b) of section 141(c) provides that the Special Trade Representative report directly to the Congress and to the President and be responsible to the President and the Congress for the administration of the trade agreements program under this act, the Trade Expansion Act of 1962, and section 350 of the Tariff Act of 1930.

In the President's message on reorganization, it is indicated that the Trade Representative will be responsible for developing and coordinating trade export expansion programs.

Mr. Chairman, if the Trade Representative is to be responsible for overall questions of policy related to the expansion of exports, it seems desirable that he be given the primary role for development of an overall export policy and strategy.

It also seems clear that the Trade Representative should be given the lead role in international discussions of export financing in the OECD and other international forum.

Some of the primary concerns of the Congress in the recently concluded multilateral trade negotiations were the tax implications of trade policy and the trade implications of tax policy.

I feel that the reorganization should place primary responsibility for considering the trade implications of tax policy with the U.S. Trade Representative.

This is particularly true of the international discussions, whether they are in the GATT—General Agreement on Tariffs and Trade—or the OECD—Organization for Economic Cooperation and Development—or other international bodies.

At a minimum, this area should be assigned to the Trade Policy Committee chaired by the Special Trade Representative if it is to receive the broad attention it deserves.

It is to be noted, Mr. Chairman, that the Department of Commerce will become responsible for administering the functions under section 303 and title VII of the Tariff Act of 1930, except for the revenue-related functions of the U.S. Customs Service.

However, the plan also gives the U.S. Trade Representative responsibility "to the extent permitted by law" over U.S. policy with regard to unfair trade practices, including enforcement of the countervailing duty and antidumping functions under section 303 and title VII of the Tariff Act of 1930.

I am concerned that the Secretary of Commerce retain clear responsibility over the administration of these functions, so that their effective implementation is assured. Regarding the negotiation of agreements to eliminate completely or to eliminate the injurious effects of a subsidy or agreements to eliminate completely or eliminate injurious effects of sales at less than fair value—for example, dumping—I am submitting a more detailed statement on this matter for your consideration.

However, it should be clear that the U.S. Trade Representative must negotiate on the basis of the parameters of each individual case, as provided by the officials in the Department of Commerce responsible for administering the law.

The authority delegated by the Congress to the “administering authority” is for the purpose of eliminating unfair trade practices and not to avoid trade policy disputes with our trade partners.

The Subcommittee on Trade, Mr. Chairman, also has been reviewing the effort of the Treasury Department to draft new regulations under title VII of the Tariff Act of 1930, as provided in the Trade Agreements Act of 1979.

It is not clear that the officials in the Department of Commerce who will have responsibility for administering title VII and the new regulations have had an opportunity to participate fully in the drafting of the regulations developed in the Treasury Department.

In a number of instances, these new regulations establish policy clearly not consistent with the statute or congressional intent in the Trade Act of 1974 or the Trade Agreements Act of 1979.

I would hope, Mr. Chairman, that the legislative history of the reorganization would strongly indicate that the Department of Commerce would indeed be the administering authority, insofar as any new regulations under the antidumping and countervailing duty statutes are concerned.

This is important in many areas. But in the operation of the trigger price mechanism, applying to steel imports, it is essential at this time. There must be a full followthrough by the responsible officials.

Finally, Mr. Chairman, our subcommittee has been concerned with the slowness with which the Department of Treasury has acted to assess duties in active cases under both the countervailing duty and the antidumping statutes.

There are a number of outstanding cases, one extending over a period of 9 years, which is still in the bowels or the inner workings of the Treasury Department.

I think that Congress must insist that the transfer of functions between the Treasury and the Department of Commerce will be handled in such a manner as to assure that the law is carried out and appropriate duties are assessed in a manner that will avoid undesirable precedents for future administration of the antidumping and countervailing duty laws.

In regard to the issues addressed above, I would like to suggest, if your subcommittee agrees, to work out report languages—I would hope we might be able to help in that process—in order to insure that these issues involving the reorganization and current patterns of congressional legislative jurisdiction and oversight are dealt with in the committee report.

I want to add one final point that I hope you would include either in your report or elsewhere in the legislative history.

One of the things that concerns me in the transition process is the effect that reorganization will have on the pending antidumping cases.

I don't want anything to disturb the normal process in the disposition of one of the major cases—the television case, for example. There are about 720 protests that are filed which have yet to be resolved.

I hope that in establishing the reorganization, which it is your responsibility to do, you will somehow join us in this effort to insist on a prompt and diligent handling and disposition of this very, very important pending business on which our economy so much depends.

Thank you very much, Mr. Chairman.

Mr. Brooks. I want to thank you very much, Congressman.

I would say that we will do what we can in the report. We have some limits and cannot legislate in it. We are just transferring and consolidating agency authority. It is kind of difficult to move very far.

I want to assure you that the aim of the reorganization is to do just what you said.

Mr. VANIK. Mr. Chairman, I understand the structure in which your committee operates. But I would think that a directive of this kind could appear in the report language very, very strongly so that the mandate to the administration is clear to provide for a proper disposition of that business.

Mr. Brooks. That is fairly reasonable. We will try to do something about that.

We are sympathetic to your subcommittee continuing to have full authority over this area. I don't think any subcommittee in Congress has—I won't say surprised all the Congressmen but has certainly delighted them—as you have with the magnificent job you did on that legislation.

It was responsive; it was fair and equitable; it was not a partisan effort. You had strong Republican support and Democratic support.

We have tried and the administration has tried in this reorganization bill to evidence that same type of consultation with you, with Gillis Long, with Bill Frenzel, with other Republicans, and with the committees. As a result of that, we have some legislation that I think will go through smoothly.

We want to thank you for your contribution and help and suggestions.

Mr. VANIK. Thank you very much, Mr. Chairman.

Mr. Brooks. Mr. Horton?

Mr. HORTON. Thank you, Mr. Chairman.

I agree with you, and I certainly want to commend our colleague for the work he has done and for his testimony this morning.

As you know, this plan does separate policy from implementation. The Trade Representative is going to have the Policy function; and the implementation, of course, is going to be in the Commerce Department.

I am interested in finding out whether or not you think this will be a serious problem. I am also interested in following up what the chairman was asking with regard to jurisdiction.

Is this going to create a problem with jurisdiction because of the implementation being in Commerce? Is this going to bring in the Inter-

state and Foreign Commerce Committee, Banking Committee, and Foreign Affairs Committee? Are we going to have one of those kinds of problems? Or do you feel this basically will be in the Ways and Means Committee?

Mr. VANIK. In response to your second question first, I would say that under the statute, the Ways and Means Committee still has jurisdiction over trade agreements and the trade statutes.

I hope that report language from your committee would clearly reinforce that jurisdictional point.

In response to your first question with respect to policy implementation, I don't think that would be a serious problem. The Special Trade Representative is preeminent. He will work in coordination with Commerce. I think that is the way we anticipate it will work.

Mr. HORRON. There is another area I want to cover with you. Do you think that this plan will meet all the requirements and have everything in place in order to implement the MTN agreement on January 1, 1980?

Mr. VANIK. No. It just can't work out that way. Much more will have to be done, regardless of the agencies given the responsibility.

Mr. HORRON. What about the number of persons needed in this new U.S. Trade Representative Office? They have 59 now, and will have to add to that.

How many people do you think will be required to man this Office?

Mr. VANIK. In our judgment, we believe it will take 130 to 150 people to properly administer this function. This is a growing function. We expect the trade business to intensify.

From what we can foresee as the volume of future business, we would estimate he would need between 130 and 150.

The Office of Management and Budget told us that they would certainly go along with whatever was necessary, but they didn't give any particulars, such as numbers of positions.

Mr. HORRON. We did ask them the day before about that subject. They are going to get us some ball park figures.

The chairman asked specifically for that information. We feel we would be somewhat handicapped to go to the floor and talk about this plan if we weren't able to say something about the number of personnel that are going to be involved.

The Director of OMB, Jim McIntyre, indicated to us that they would get us some information. The chairman said that we were not going to bring it to the floor until we get it. So, it is a little bit of an incentive to them to get it up to us also.

Mr. VANIK. I would hope you press on that commitment, because in the conflict of the total budgetary issue OMB will try to hold us down to the minimum.

But from what we can see, as I noted earlier, we believe that 130 to 150 people must be committed for this assignment.

The business that is going to be involved is immense, and we need the expertise and the constant work of about that many people.

Mr. BROOKS. Would the gentleman yield?

Mr. HORRON. I would be glad to yield.

I would just like to add that we are very grateful to you for your thoughts on this and your expertise. That helps the committee, also, to understand the problem a little better.



**Mr. BROOKS.** I believe that they had not officially—they were talking about 101 to 134, or something in that ballpark area. So they are not too far from you. They haven't come up with their final number yet. But you would be for the high side.

**Mr. VANIK.** We see it on the high side. We are just as anxious to hold public expenditure down as anyone.

We have made tremendous commitments—our committee and the members who deal with trade issues and worked so hard to get congressional approval of the multilateral trade agreements. We made pledges and promises to every sector of the American economy.

This is really a very vital and important function. The STR is going to have a lot of constant business to take care of.

I think that 130 to 150 is already on the short side of what we ought to have. We expect that there is going to be a tremendous requirement for qualified trade policy people.

**Mr. HORTON.** I agree with you, and I made that point to the Director of OMB Tuesday at our hearing. We certainly want to cut back on the bureaucracy and the number of personnel involved. On the other hand, when you have something as large as this trade problem, it is highly important that we have adequate and efficient and competent personnel to do the job.

OMB made that commitment. But we did feel that we ought to have at least some figures. Your testimony, I think, is going to help the subcommittee on this.

**Mr. VANIK.** From the standpoint of cost benefit, Mr. Horton, we make the point that for every person involved there will be hundreds of millions of dollars worth of business for America. The benefit factor is tremendous as to gains we can get in trade and commerce per capita involved in the trade administration.

**Mr. HORTON.** I spoke with a constituent of mine in Rochester, Harold Passer, the assistant treasurer of Eastman Kodak, who had some expertise and knowledge in this field and some experience with the Commerce Department.

He has written me a letter on the subject. I would like to ask unanimous consent to include his statement in the record in support of the plan.

**Mr. BROOKS.** Without objection, it is so ordered.

[The letter follows:]

Eastman Kodak Company  
343 State Street  
Rochester, New York 14650  
October 8, 1979

The Honorable Frank Horton  
The House of Representatives  
2229 Rayburn Building  
Washington, D.C. 20515

Dear Frank:

This letter is in response to your request for my views on the proposed reorganization of the various governmental functions and activities relating to international trade.

As I understand it, President Carter decided to go the route of executive department reorganization, rather than new legislation. Thus his proposal will go into effect 60 days after submission unless voted down by the House or the Senate. There apparently is no possibility of changing the proposal; it must be accepted or rejected.

I would recommend accepting the proposal, mainly because it goes a long way toward doing what should be done in the international trade field. To be specific, I am in agreement with the following features of the Carter proposal:

1. Shift the commercial attaches from State to Commerce.
2. Shift unfair import remedy responsibility from Treasury and the International Trade Commission to Commerce.
3. Place the Secretary of Commerce on the Board of Directors of the Export Import Bank.
4. Centralize both negotiating and policy responsibilities for international trade in the Office of the United States Trade Representative.

It would also be desirable to strengthen President Carter's proposed reorganization by, for example, clarifying the term "international investment policy" to make sure that it includes tax and antitrust policies, clarifying the role of the United States Trade Representative as including policy formulation as well as implementation, and clarifying the status of the United States Trade Representative by including him as a member of the President's top economic advisory team.

But President Carter's proposal is a major step forward because it concentrates most international trade functions in two agencies

(Commerce Department and Office of U.S. Trade Representative). Thus I would favor Congressional acceptance of the Carter proposal at this time.

Turning to another issue in the area of international trade and export promotion, I feel very strongly that DISC has been a major factor in the substantial increase in U.S. exports in recent years and that it would be a serious mistake to weaken DISC further or to eliminate it, as has been proposed by the Carter Administration.

Best Personal Regards.

Sincerely yours,

/S/

Harold C. Passer  
Assistant Treasurer

**Mr. Brooks.** I would like now to recognize the gentleman from Illinois, Mr. Erlenborn.

**Mr. ERLENBORN.** Thank you, Mr. Chairman.

Let me just join with my colleagues in complimenting you on your efforts in this area and your testimony before us this morning.

I think the questions have been fairly covered, and I have no further questions.

**Mr. VANIK.** Mr. Chairman, I would like to make one further comment to the subcommittee.

We are very much concerned with the implementation of what we have done. We are also very much concerned with who is going to be doing this job.

Under the reorganization there is established a new Under Secretary for Trade in Commerce. We hope for that an aggressive, trained, responsible person will be placed in that post.

There is also the matter of the vacancy of the high level American position in the General Agreement on Tariff Trade. Mr. Patterson, the current Deputy Director General, is leaving. We are very sensitive and aware of the importance of that office.

I hope that the members of your subcommittee will be watching carefully to be sure that we have people in these positions who are going to be responsive to what we are doing, what we did in the Trade Agreements Act of 1979, and what you are doing in the trade function reorganization, so they will be able to answer to the Congress and function in accordance with the requirements of the statute and our legislative intent. So I hope you will help in that very important effort.

I want to thank your subcommittee for its very kind indulgence.

We have directed our staff to work in any way to cooperate with your staff in the details of this plan. I hope you will utilize that offer.

**Mr. Brooks.** Thank you, Mr. Vanik. We will continue to utilize the fine expertise you have garnered up over there on the Ways and Means Committee.

**Mr. VANIK.** Thank you very much.

[Mr. Vanik's prepared statement follows:]

STATEMENT BY CHARLES A. VANIK, CHAIRMAN, SUBCOMMITTEE ON TRADE,  
COMMITTEE ON WAYS AND MEANS, BEFORE THE SUBCOMMITTEE ON LEGISLATION  
AND NATIONAL SECURITY, COMMITTEE ON GOVERNMENT OPERATIONS,  
OCTOBER 18, 1979, ON TRADE REORGANIZATION

Mr. Chairman, I very much appreciate the opportunity to appear before this Subcommittee on the President's plan to reorganize certain trade functions of the government. This occasion brings to mind the recent high degree of cooperation between the Committee on Government Operations and its Chairman and my own Subcommittee on Trade of the Committee on Ways and Means in the development and approval of the Trade Agreements Act of 1979 (Public Law 96-39). I would again like to express my appreciation to the Chairman and his Committee for that cooperation.

The subject matter of the reorganization plan before this Subcommittee is related to the very heart of my own Subcommittee's effort of the last three years, that is, to maximize to the extent possible the gains and minimize the losses from international trade for the United States economy and its citizens.

I believe it is important to remember that for the most part, the authorities and responsibilities dealt with in the reorganization plan are delegated to the President and the departments and agencies by the Congress under its Constitutional power to levy tariffs and other imposts and taxes and to regulate foreign and domestic commerce. Foreign policy issues are necessarily intertwined in trade policy development and implementation. However, the central thrust of trade programs and operations, now more than ever before, must be commercial in orientation. United States producing and service enterprises must be afforded the opportunity to compete in an atmosphere of expanding and fair trade. Most of the trade statutes which seek such opportunities and conditions for American business, producers and consumers, in cooperation with our trading partners, have been the object of close scrutiny under the jurisdiction of the Subcommittee on Trade of the Committee on Ways and Means.

It is on that basis that I would like to address certain aspects of the Trade Reorganization Plan.

First, I support the President's reorganization plan. It is a needed step in improving the coordination in the development and execution of trade policy, and in particular to better capitalize on the potentials for export sales so sorely needed in the face of our

unacceptable but continuing trade deficits. Based on an informal meeting of our Subcommittee on Trade, I believe that most of our members will support the reorganization. In reviewing the reorganization in light of the experience of the Subcommittee, there are a number of areas which require clarification and possible elaboration.

#### The Role of the President's Special Trade Representative

The President's Special Trade Representative as a concept and an operating entity has served the international trade interest of the United States very well. As a position it was specifically created by Act of Congress in 1962 and built upon in the Trade Act of 1974. The further elaboration of the responsibilities of the new United States Trade Representative serves the overall purpose of the reorganization of trade functions which is to better plan a coherent trade strategy and insure its vigorous implementation.

The specifics of new responsibility for the United States Trade Representative are set forth in section 1(b), subparagraphs (2), (3), and (4). It should be made clear that in consideration of the President's trade reorganization plan that the duties of the Special Representative for Trade Negotiations set forth in section 141(c) of the Trade Act of 1974 are to continue in law and in fact. Specifically, subparagraph (B) of section 141(c) provides that the Special Trade Representative "report directly to the President and the Congress and be responsible to the President and the Congress for the administration of the trade agreements program under this Act, the Trade Expansion Act of 1962, and Section 350 of the Tariff Act of 1930." Further, subparagraph (C) of section 141 states that the Special Trade Representative shall "advise the President and the Congress with respect to non-tariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements program." Obviously, this language emphasizes the special relationship of the trade representative to the Congress which must be continued if the procedures set forth in the Trade Act of 1974 and amended by the Trade Agreements Act of 1979 are to work effectively.

In the President's message on reorganization it is indicated that the Trade Representative will be responsible for developing and coordinating an export expansion program. As a part of that function, the trade representative is to become a member of the National Advisory Council on International Monetary and Financial Policies and an ex officio member of the boards of the Export Import Bank and the Overseas Private Investment Corporation. It is not clear, however, whether the new Trade Representative will be the chief spokesman for the United States in questions of export financing particularly in seeking a solution to the increasingly important problems of international competitive financing. It is also not clear whether development of a much needed export policy and strategy is envisaged or merely greater attention to more narrow and less basic trade promotion and marketing activities. If the Trade Representative is to be responsible for overall questions of policy related to the expansion of exports, it seems desirable that he be given the primary role for development of an overall export policy and strategy. It also seems clear that the Trade Representative should be given the lead role in international discussions of export financing in the OECD and other international fora.

Some of the primary concerns of the Congress in the recently concluded Multilateral Trade Negotiations were the tax implications of trade policy and the trade implications of tax policies. The assumptions concerning the trade neutrality of certain tax practices have long been questioned by many United States producers. International disagreements with respect to the incidence of direct and indirect taxes on trade were not dealt with directly in the negotiation of the new subsidies code. The business community and the Congress are examining new tax proposals to provide equity for United States firms in competing with our major trading partners, particularly in third markets. Those in the Executive branch who have been responsible for considering the trade implications of tax policy have been unresponsive to the needs of our trading community in analyzing the incidence of tax programs on the competitiveness of U.S. producing interests. Therefore, I feel that the reorganization should place primary responsibility for considering the trade implications of the tax policy with the United

States Trade Representative. This is particularly true of international discussions whether in the GATT or the OECD or other international bodies. At a minimum, this area should be assigned to the Trade Policy Committee if it is to receive the broad attention it deserves.

The trade reorganization appears to deal adequately with the increased effort that will be needed to implement and monitor the new trade agreements reached in the Tokyo Round of Multilateral Trade Negotiations and other international agreements where questions of U.S. trade rights and obligations arise. The responsibilities of the new United States Trade Representative are reaffirmed in this regard and the responsibilities of the Department of Commerce regarding the day-to-day implementation, are also made clear. The office of the United States Trade Representative must be adequately staffed to carry out this responsibility in the manner that is necessary if the United States trade opportunities created by the new agreements are to be successfully implemented. It is recognized that any administration reacts negatively to adding personnel to the Executive Office of the President, at least on the record. Given the decision, however, to strengthen this office, there must be a follow-through by providing an adequate staff for the responsibilities given to the United States Trade Representative by this reorganization.

In the critical area of energy trade, the coordination of responsibilities are not at all clear. While the Trade Representative will coordinate energy trade matters, the Departments of Energy and State will continue to share responsibilities for international energy issues. Further, the national security provision, section 232 of the Trade Expansion Act of 1962, is transferred from the Treasury Department to the Commerce Department. However, the Energy Department is presently considering an oil import program which must be implemented under the authority of section 232, the national security provision. I would urge that in this confusing state of affairs that it be made clear that there is no transfer of legislative and oversight jurisdiction insofar as the Congress is concerned.

#### The Role of the Department of Commerce

The Subcommittee on Trade has devoted a great deal of time and resources to the oversight of the Department of the Treasury's administration of the Antidumping Act and the countervailing duty provisions of the



Tariff Act of 1930. In a number of instances, the Subcommittee found that the Department officers responsible for the administration of these important statutes failed to obtain or provide the resources adequate to administer these laws effectively. In some instances, it was suspected that other policy considerations resulted in a failure to administer statutes properly, and discretion was exercised by the Department which is not provided in the statute. The poor administration of these statutes has not, of course, been limited to the current administration, and many of the problems that both the staff and the policy officials have faced were created under previous administrations. Nevertheless, the Congressional intent of these laws aimed at insuring conditions of fair trade for United States producers has been clear as has been the amendments to these provisions aimed at improving the administrative procedures under them. To paraphrase a statement by OMB Director McIntyre in our Subcommittee hearings on trade reorganization, you do not solve poor administration by changing agency responsibility. This, however, is what the reorganization proposes and therefore, I am concerned that the reorganization provide the Department of Commerce with the best possible opportunity to successfully administer these new responsibilities.

In this regard, it is noted that the Department will become responsible for the functions under section 303 and Title VII of the Tariff Act of 1930 except for the revenue related functions of the United States Customs Service. However, the plan also gives the United States Trade Representative responsibility "to the extent permitted by law" over the United States policy with regard to unfair trade practices including enforcement of countervailing duty and antidumping functions under section 303 and Title VII of the Tariff Act of 1930. I am concerned that the Secretary of Commerce retain clear responsibility over the administration of these functions so that their effective implementation is assured. Regarding the negotiation of agreements to eliminate completely or to eliminate the injurious effects of a subsidy or agreements to eliminate completely or eliminate injurious effects of sales at less than fair value (dumping), I am submitting a more detailed statement on this matter for your consideration. However, it should be clear that the United States representative must negotiate on the basis of the parameters of each individual case as provided by the officials in the Department of Commerce responsible for administering the law. The authority delegated by the Congress to the "administering authority" is for the purpose of eliminat-

trading partners.

The Subcommittee on Trade also has been reviewing the efforts of the Treasury Department to draft new regulations under Title VII of the Tariff Act of 1930 as provided in the Trade Agreements Act of 1979. It is not clear that the officials in the Department of Commerce who will have responsibility for administering Title VII and the new regulations have had an opportunity to participate fully in the drafting of the regulations developed in the Treasury Department. In a number of instances, these new regulations establish policy clearly not consistent with the statute or Congressional intent in the Trade Act of 1974 or the Trade Agreements Act of 1979. I would hope that the legislative history of the reorganization would strongly indicate that the Department of Commerce would indeed be the administering authority insofar as any new regulations under the antidumping and countervailing duty statutes are concerned. This is important in many areas, but the operation of the trigger price mechanism applying to steel imports is essential at this time, and there must be full follow-through by the responsible officials.

Finally, the Subcommittee on Trade has been concerned with the slowness with which the Department of the Treasury has acted to assess duties in active cases under both the countervailing duty and antidumping statutes. There are a number of outstanding cases, one extending over a period of nine years which is still in the bowels of the Treasury Department. I think the Congress must insist that the transfer of functions between the Department of Treasury and the Department of Commerce will be handled in such a manner as to assure that the law is carried out and appropriate duties are assessed in a manner that will avoid undesirable precedents for future administration of antidumping and countervailing duty laws.

Mr. Chairman, in regard to the issues addressed above, I would like to suggest, if your subcommittee agrees, to work out report language in order to assure that these issues involving the reorganization, and current patterns of Congressional legislative jurisdiction and oversight are dealt with in the Committee report.

**SUPPLEMENTARY STATEMENT BY CHARLES A. VANIK ON THE  
ADMINISTRATION OF TITLE VII OF THE TARIFF ACT OF 1930**

The President's proposal appears to divide responsibility for the administration of Title VII of the Tariff Act of 1930, relating to antidumping and countervailing duties, between the Department of Commerce and the United States Trade Representative.

During the last two years the Trade Subcommittee of the Ways and Means Committee made an intensive study of the operation of the antidumping and countervailing duty laws and concluded that certain amendments were essential to the fair and expeditious administration of these statutes. The Subcommittee's deep interest in the proper administration of our unfair import practice laws was reflected in the long, detailed discussions held on this issue during our consideration of the Trade Agreements Act of 1979. In accepting the President's reorganization proposal there should be no opportunity given for later deviation from the Congressional intent reflected in the statutory language of that Act.

Under the reorganization plan, the United States Trade Representative is responsible for the conduct of trade negotiations, and, to the extent permitted by law, overall United States policy concerning unfair import practices, including enforcement of antidumping and countervailing functions under Title VII of the Tariff Act of 1930. The proposal does not elaborate on these statements, although the President's message does state that coordination of trade policy with

respect to antidumping and countervailing duty matters shall be directed toward establishing new precedents and negotiation of assurances. Several questions therefore arise as to how this negotiating authority relates to the provisions of Title VII authorizing the suspension of antidumping and countervailing duty investigations on the basis of agreements with foreign governments and/or exporters of the product under investigation.

First, we must ask whether the negotiating authority applies at all to negotiations contemplated by Title VII. From the President's message, it would appear so. If this is the intention, however, the proposed reorganization plan is unacceptably vague. Assuming that such an authority is intended, a question arises as to whether the authority is limited. The designation of a single agency to represent the United States in all trade negotiations with foreign governments is arguably a sensible approach. It ensures uniformity and continuity in our relations with foreign governments. Conversely, foreign governments know with whom they must deal to resolve problems. For this reason, I could agree that in those countervailing duty investigations in which suspension agreements are under discussion with the government of the exporting country, the United States Trade Representative will be the lead agency in those discussions. However, where an agreement with exporters is contemplated, there is no similar overriding need to take the negotiating authority out of the Department of Commerce which will have the greater expertise in administering the statute.

A further question arises concerning the scope of the United States Trade Representative's authority in conducting such negotiations. We must not forget that the discretionary authority to accept an agreement to eliminate or offset a subsidy or its injurious effect is accorded by statute to the Secretary of Commerce. Thus, while the reorganization plan grants the United States Trade Representative the lead authority in negotiating a suspension agreement with a foreign government, the statutory authority to accept or reject the agreement still lies with the Secretary. It is the Secretary, not the United States Trade Representative, who must determine whether the agreement meets the statutory criteria. Thus, for example, the Secretary shall decide whether an agreement will offset the net amount of the subsidy; that is, the Secretary will decide what constitutes the net amount of the subsidy. Similarly, the Secretary is responsible, pursuant to the statute, for determining whether the agreement is in the public interest and whether monitoring of the agreement is possible.

In short, in granting the United States Trade Representative a limited negotiating role in countervailing duty investigations, the President's reorganization proposal cannot be interpreted to derogate from the Congressional intent, as reflected in the statutory language, to grant the Secretary of Commerce the authority to suspend investigations and to set the parameters of the agreements pursuant to which such investigations are suspended.

This latter point applies equally to the statement in the President's message concerning the authority for the United States Trade Representative to establish new precedents relating to anti-dumping and countervailing duty matters. The message does not enlarge upon this statement. However, one could argue that it is intended to allow the United States Trade Representative to make decisions now made by the Secretary of the Treasury; e.g. the United States Trade Representative could decide that a particular adjustment to foreign market value will, in the future, be permitted under the Act.

I cannot emphasize enough that neither a reorganization plan nor the Presidential message accompanying it can expand or narrow the scope of a legislative grant of authority.

If the President wishes to change the present statutory scheme, he can do so only through the legislative process.

**Mr. Brooks.** Our next witness is Hon. Gillis Long, who has been detained and is unable to be present.

I ask unanimous consent that his statement be put in the record at this point.

Without objection, it is so ordered.

[Mr. Long's prepared statement follows:]

OPENING REMARKS OF GILLIS W. LONG, October 18, 1979  
 SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY, COMMITTEE ON  
 GOVERNMENT OPERATIONS

Thank you Mr. Chairman and Members of the Subcommittee. I want to thank you all for the opportunity to appear before you again to discuss the question of reorganizing our trade bureaucracy. Mr. Chairman, I am convinced that trade reorganization is one of those often overlooked areas that is critical to our international economic performance in the 1980's.

Just over a month ago, I appeared before your subcommittee to express my keen disappointment in the President's first proposal on trade reorganization. Shortly after my testimony, I had a long, frank, and I think fruitful, discussion with the staff of the Office of Management and Budget. There were similar meetings with other interested parties in the House and the Senate.

Since that time, Mr. Chairman, the President has come forward with a modified trade reorganization plan and announced the formation of a new trade team. I am pleased that I can say nice things about both.

I know that Governor Askew has long had an interest in improving the export performance of the United States, and I think we have every reason to expect a first-rate performance from the Governor and his strong supporting cast.

I was also pleased when the President submitted his trade reorganization plan to the Congress. The proposal still does not go far enough, and it leaves an unmet need for further restructuring to another year. But I do feel that many of my own deep concerns about the original proposal have been met in the President's reorganization plan.

The central point has been met: The United States Trade Representative is given a clear leadership role as the American spokesman on trade matters. The President has eliminated the previous ambiguity about whether the Trade Representative, the Trade Policy Committee, the Secretary of Commerce, or the Undersecretary for Trade was the American voice on trade matters.

Under the President's plan, the Trade Representative will be given responsibilities in several new areas. The emphasis on including service industries such as banking and insurance in the formulation of trade policy should strengthen our international position. I was particularly glad to see that the trade representative was given explicit responsibility for the development of U.S. export policy -- an area that has long been neglected and one that is vital to the international economic health of the country.



There were several other apparently small changes in the role of the Trade Representative that should improve policy-making and coordination in the future. The Trade Representative will now be on the Board of the Export-Import Bank and the Overseas Private Investment Corporation. Even more important, the Trade Representative will now be a member of the National Advisory Council on International Monetary and Financial Policies. For the first time, the Trade Representative will have an institutional voice on exchange rate and other international financial policies that have such a major impact on our trade performance. The addition of the Department of Labor to the trade negotiating committee should assure the Trade Representative of valuable advice from an important constituency.

The President has chosen to consolidate operational responsibility for part of the trade agreements implementation, export promotion and enforcement of our laws against unfair trade practices in an expanded Department of Commerce. As you know, Mr. Chairman, I have serious reservations about any long-run decision to split policymaking and operations. There is too much opportunity for the right policy brain not to know what the left operational hand is doing. Worse, in cases where the hand is faster than the bureaucratic eye, there is the danger of policy confusion and inconsistency. All that said, I understand that the Commerce Department is doing its diligent best to make a smooth and effective transition to its new trade role.

Mr. Chairman, last month I told your Committee that the country needs a full-fledged Department of Trade. My own compromise proposal for a small, independent Special Trade Agency was designed to be the first, politically possible step in that direction. Even that half loaf has proved too ambitious for the present. I can accept the proffered quarter loaf with a relish, but also with a good deal of anticipation, for there is much more baking to be done.

Before we look to the future of U.S. trade, Mr. Chairman, there are certain features of the President's reorganization proposal that should be clarified. First, under the President's plan, the Trade Representative will have greatly expanded responsibilities. But power without people can force any trade representative to neglect some areas while he tends to others. So far, the Office of Management and Budget has been unwilling to commit itself to any specific figure for the Trade Representative's staff. In fact, the OMB has engaged in something of a fan dance with figures. Mr. Chairman, as an absolute minimum, the Trade Representative should have a staff of one-hundred and thirty to one-hundred and fifty (130-150). As we go forward with the reorganization plan, I think we must have a clear commitment from OMB about staffing levels.

Second, the President has not issued a final executive order on trade reorganization. I think most participants in the trade reorganization debate are satisfied with the language of the draft executive order that accompanied the President's trade reorganization proposal. I, for one, would feel much better if the final executive order had already been issued.

Mr. Chairman, I am convinced that the President has taken a thoughtful first step in the right direction. Although there remains much to be done in streamlining and strengthening our trade bureaucracy, the President has given us a good start. It was also another instance in which the Administration worked closely and responsively with the Congress. I am already looking forward to working with them again as we move to put the United States on an equal footing with our major trading partners.

Mr. BROOKS. I now call our first business witness, Mr. Robert L. McNeill.

Mr. McNeill is the executive vice chairman of the Emergency Committee for American Trade.

Among his many activities prior to his present position, he was Deputy Assistant Secretary of Commerce for trade policy, Executive Director of the President's Trade Policy Committee, and served on the staff of the Bureau of the Budget as a senior international economist.

We are delighted to have you, Mr. McNeill. You may proceed with your statement.

**STATEMENT OF ROBERT L. McNEILL, EXECUTIVE VICE CHAIRMAN,  
EMERGENCY COMMITTEE FOR AMERICAN TRADE**

Mr. McNEILL. Thank you, Mr. Chairman. I am delighted to be here. I am pleased to express the support of the Emergency Committee for American Trade, better known as ECAT, for President Carter's trade reorganization plan.

ECAT is an organization of 63 business leaders devoted to expansionary U.S. trade and investment policies.

Our members represent large American companies with substantial overseas business interests. Their worldwide sales in 1978 were nearly \$400 billion, and they employed about 5 million workers in that year.

ECAT has a deep and abiding interest in U.S. trade policy. We have worked hard for passage of the Trade Act of 1974 and followed very closely the course of the successfully concluded multilateral trade negotiations that the Trade Act of 1974 authorized.

ECAT strongly supported the recently passed Trade Agreement Act of 1979 that implements the rights and obligations agreed to by the United States in the Geneva trade pacts.

Now we are pleased to support the administration's proposal to consolidate international trade functions in the office of the U.S. Trade Representative and in the Commerce Department.

The course of U.S. trade policy in the years to come will be profoundly affected and determined by the manner in which the new international trade codes are administered, both in this country and abroad.

The four principal codes deal with countervailing duties and subsidies, Government procurement, standards, and import valuation. Each code treats fundamental issues bearing on international trade and each is designed to alleviate or remove unfair trade practices.

Because the codes represent internationally negotiated settlements, they are not always precise in defining issues, rights, and obligations.

The true meaning and value of the codes, therefore, will be determined by their interpretation and administration by ourselves and our major trading partners.

Reorganization Plan No. 3 will be instrumental in helping the United States respond effectively and efficiently to the challenges and opportunities of the codes, as well as to other international trade and investment problems.

We applaud the centralization of authority for the development, coordination, and negotiation of international trade matters in the office of the U.S. Trade Representative.

His location in the Executive Office of the President, together with the authorities the President proposes to confer on him, should lead to effective trade policy administration in our country.

We also support the strengthening of the Commerce Department's international trade functions, as proposed by the President.

Many businessmen have long felt that the foreign commercial service properly belonged in Commerce rather than in the State Department.

We hope that its proposed transfer to the Commerce Department will result in more effective overseas representation of American business interests.

A pivotal element of the President's reorganization proposal is the switching from Treasury to Commerce of basic responsibilities for administration of the United States countervailing duty and the anti-dumping statute.

These are the key domestic statutes dealing with unfair trade practices, and they implement the U.S. rights and obligations of the international subsidies code.

This code is intended to discourage governments from using subsidies to provide unfair trade advantages to their producers.

When subsidies are used for unfair competitive advantage, the code authorizes the imposition of countervailing duties which are special duties set at a rate that will neutralize the foreign subsidy.

Thus, a 10-percent subsidy would be answered by a 10-percent countervailing duty.

The subsidies code is also similarly addressed to dumping, which is the selling of a product in another country at a lesser price than in the home country.

ECAT's hope and expectation is that Commerce will administer its new responsibilities in the countervailing and dumping areas in an even-handed manner. We expect the same of the Trade Representative who will have responsibility for international negotiations involving foreign subsidies.

It is a sensitive area that must be handled with considerable care, both here and abroad, if we are to avoid competitive international subsidization and the consequent retaliatory actions that would follow.

We are also encouraged with those provisions of the reorganization proposal providing the Trade Representative with the lead policy responsibility for international investment issues. We hope that this will result in more consistency in U.S. international economic policies, including international tax and antitrust policies, than at present.

It is, for example, confusing and frustrating to be exhorted by the Government to export at the same time that the Government is imposing barriers and disincentives to exporting.

Hopefully, the Trade Representative will use his authorities to bring trade and investment policies into harmony.

Thank you, Mr. Chairman.

Mr. Brooks. Thank you very much for an informative statement. We appreciate your testimony this morning, and we appreciate your evaluating this subject so carefully from your standpoint because it

is helpful. You have dealt in just the kind of area we are working on, and you are aware of the complexity of the problems that such an agency and activity faces.

Do you feel that American businessmen generally support the transfer of the foreign commercial service from the State Department to the Department of Commerce?

Mr. McNEILL. Yes; I do. I also think there is a good deal of skepticism as to the effectiveness of the proposal in the initial year or two.

Most foreign commercial slots in embassies are filled presently by Foreign Service officers. There is going to have to be a transition period where these people either opt to go into the Commerce Department's commercial service or opt out of it.

If large numbers opt out, we are quite concerned that the Commerce Department may have some difficulty in filling those slots.

There are large numbers of persons involved. It is our hope and expectation that Commerce will find appropriate personnel. If they do, we would anticipate greater emphasis being placed on business concerns abroad.

Over the years, business has been rather disappointed that the commercial function in any given embassy has usually been at the bottom of the embassy's priorities.

Mr. BROOKS. Thank you very much.

The gentleman from New York, Mr. Horton.

Mr. HORTON. Thank you, Mr. Chairman.

Do you feel that switching the commercial attachés from State to Commerce will help to promote exports?

Mr. McNEILL. We certainly hope so. It is expected it will, Mr. Horton.

Mr. HORTON. Do you have any view with regard to splitting policy from implementation? Does that create any problem with you?

Mr. McNEILL. No; it does not.

The operational day-to-day administration will be in the Commerce Department. Policy development and general policy guidance will come from the U.S. Trade Representative.

We see no reason why this should not work well.

Mr. HORTON. Secretary Kreps testified that the Commerce Department intends to establish a new Bureau of Industrial Analysis, which would be patterned after the Economic Analysis Bureau. Do you think that this is a good idea?

Mr. McNEILL. Yes; very much so, Mr. Horton.

Many years ago the Commerce Department had on the domestic side of its house a very large number of commodity experts who followed particular industries and were knowledgeable about them.

When foreign trade persons needed information about the domestic economy or a given industry, they could get that from the appropriate Commerce commodity specialist.

Over the years, that function in Commerce has, I think, been rather neglected. Commerce presently, to my understanding, has very few industrial or commodity experts.

The intention of Secretary Kreps and of this plan is to rebuild that capacity so that there will be a number of intelligent and well-informed economists who can advise the Special Trade Representa-

tive and the foreign people in the Commerce Department as to the likely economic domestic consequences of proposed international trade actions.

I think that is a vital thing—perhaps as vital as any part of this reorganization plan.

We simply have to know better than we presently do the consequences of foreign actions on our domestic producers.

Mr. HORTON. I served as the Chairman of the Paperwork Commission. We made our final report in October of 1977.

At that time we felt that the problem of paperwork was about a \$100 billion a year problem. About 40 percent of this was a burden on industry.

Do you feel—and I guess you are going to have to assume that there are going to be more requests from both the Trade Representative and Commerce for information from your companies—that there is going to be an increase in paperwork? Does this create a problem for you?

Mr. McNEILL. I don't see why there necessarily would have to be an increase in paperwork. I would hope that there would be an increase in the dialog between ourselves and our Government officials with respect to those problems such as you have indicated and those in the paper area or the auto area or any other.

But I don't necessarily see why more paperwork should be involved. We would certainly hope that that would not be the case.

Mr. HORTON. Thank you very much.

Mr. BROOKS. Mr. Fascell?

Mr. FASCELL. Thank you, Mr. Chairman.

I guess that as long as I have been here and have been connected with some responsibility in the State Department I have heard the constant complaint from American businessmen that if you ever want any help, don't go to the American Embassy.

I gather that is a general attitude that you have, based on your experience and not a restatement from other businessmen.

Mr. McNEILL. Yes, Mr. Fascell, very much so.

When I was in Government, I recall that if you went to an American Embassy as a Commerce Department official when traveling abroad, you would want to see your own people and personnel in the embassies. You would have to go down into the basement, so to speak, of the building. In a corner, you might find a commercial attaché.

Mr. FASCELL. Right next to the consular office.

Mr. McNEILL. Yes, sir.

Mr. FASCELL. Which is also in the basement.

Mr. McNEILL. Right.

We have every reason to expect that with the transfer of the function to Commerce that that will change.

Our hope is that commercial service for business will become as effective as the Foreign Agricultural Service has been for our agricultural community.

Mr. FASCELL. Are they housed in different facilities?

Mr. McNEILL. No. They are housed in the Embassy.

Mr. FASCELL. Would they have the same boss?

Mr. McNEILL. The boss in all instances will still be the U.S. Ambassador.

Mr. FASCELL. I'm not sure that is the problem.

However, I supported the change in the agricultural attachés and I am going to support this reorganization plan. But I don't think it is going to do what we are talking about.

I don't see the commercial representative, or attaché or whatever he is going to be, now that he has a new hat, namely the Secretary of the Department of Commerce, suddenly moving up from the basement to the Ambassador's office. I think he is going to stay in the basement.

The priorities will be determined, perhaps not by an ambassador. It is the sheer dynamics of events.

I am not sure a new boss will be able to shape the dynamics of events for that commercial representative in that area.

But I am for it, and we will try it. Maybe it will be better.

I notice in your statement that you support the transfer of the enforcement on countervailing and antidumping from Treasury to Commerce.

Is there something inherent or constitutional about Treasury that makes them ineffective? Is that the reason you support the transfer?

Mr. McNEILL. No. I think that on the whole the Treasury has been very responsible in its administration of these particular statutes.

We support the transfer to the Commerce Department because we think that with its new trade responsibilities those particular statutes will be considered in an overall trade context by the trade administering agency.

Mr. FASCELL. In other words, it is more logical to put it there.

Mr. McNEILL. Yes, sir. It would fit in with the rest of the President's intentions to make the Commerce Department the international trade department of the Federal Establishment. In that sense, we think it makes a lot of sense.

Mr. FASCELL. So you are supporting the transfer, not inherently, because of a policy disagreement on the manner or method by which enforcement has proceeded up to date.

Mr. McNEILL. That is correct, sir. We have no problem with the way Treasury has done it. Treasury has perhaps had a greater workload than the Budget Bureau has been willing to give its staff to handle. Hopefully, that can be corrected in part by this transfer.

We had no problem whatsoever with Treasury administration. I think they have done a very good job over the years.

Mr. FASCELL. Thank you, Mr. Chairman.

Mr. BROOKS. The gentleman from Illinois, Mr. Erlenborn.

Mr. ERLENBORN. Thank you, Mr. Chairman.

Mr. McNeill, I confess to having some of the same reservations as the gentleman from Florida about the commercial attachés. Do you see any career opportunities for people who take these jobs?

At the present time they are State Department people. They move from one position in the State Department to another. The kind of job they do, while they are either full-time or part-time commercial attachés, will determine their advancement in the career service.

It just occurs to me that when you have a commercial attaché who is not in the career service of the State Department but rather the Commerce Department the same incentives may not be there.

Mr. McNEILL. I think that there will be greater incentive; because presently—I can't say presently. But based on my experience, which

now goes some years back and I think the situation is still the same, the commercial service is given low priority within the Foreign Service. There are not many senior positions set aside for the commercial function in an embassy.

When I was in Government, we had a commercial counsellor in only four embassies in the world—one in Tokyo, one in Germany, one in England, and one in some other developed country. They were the four most senior commercial positions.

A counsellor is under a minister in rank in an embassy. So that, I think, is an indication of the seriousness given to the commercial function.

The commercial service did not offer much of a ladder to climb. There were very few slots at the top of the ladder once you got there. So it was not a viable option, really, for a Foreign Service officer who wanted to achieve a senior rank and a senior position within the Foreign Service.

I would hope that by establishing a separate commercial service, the function would be upgraded. And in upgrading the function, the GS level of the function will also be increased so that there will be many more senior positions available for people. This will encourage people to go into that service in the Commerce Department.

Mr. ERLNBORN. Do you see this as a rung in the career ladder of people who are in the Commerce Department? Or, is it more likely to become a nice way to spend a couple of years overseas for someone who has been in the Commerce Department in Washington and intends to come back here and continue his career. A kind of interlude?

Mr. McNEILL. I would hope that they do not structure it that way. I would hope that they would structure it where they would indeed have some assignments, as Foreign Service officers do.

Mr. ERLNBORN. Do they think of this as sort of a separate foreign service career within the Commerce Department?

Mr. McNEILL. Yes, sir.

Mr. ERLNBORN. And how many positions do you think there will be?

Mr. McNEILL. I have no idea.

Mr. ERLNBORN. I think the estimate is something like 160 to begin with.

Mr. McNEILL. That sounds about right. That would not include local nationals employed in the commercial office of an embassy. That would be U.S. personnel.

Mr. ERLNBORN. Is it viable to have a separate career service of that size?

Mr. McNEILL. It is a good start.

I don't know how many the Foreign Agricultural Service has, but it is that that I would hope the Commerce service would be patterned after.

Mr. ERLNBORN. Is there a separate career service apart from the Department of Agriculture?

Mr. McNEILL. It is within the Department of Agriculture.

Mr. ERLNBORN. I mean the people. Do they move from the Department of Agriculture into the Foreign Agricultural Service and then back again?

Mr. McNEILL. Yes, sir.



Mr. ERLNBORN. Rather than making a career out of FAS.

Mr. McNEILL. The Department of Agriculture has an international side. It is within that international side that people will serve both domestically and abroad, as an agricultural attaché when abroad and as a foreign agricultural international specialist when at home.

Mr. ERLNBORN. Again, I will say that I have reservations about that.

I have heard some criticism of our already existing system where there are too many people who really work for somebody other than the State Department and who are within our embassies. Our ambassadors find it a bit difficult to manage with so many independent people under their wing.

Mr. McNEILL. Yes. I have friends who are ambassadors who are still trying to find out who on their own staff are the CIA people. [Laughter.]

Mr. ERLNBORN. That's right.

Thank you, Mr. Chairman. And thank you, Mr. McNeill.

Mr. BROOKS. I want to thank you very much. We appreciate your testimony.

Mr. McNEILL. Thank you, sir.

Mr. BROOKS. Our next witness is Mr. Ronald Shelp. Mr. Shelp is vice president and director of the American International Underwriters, a New York-based insurance company with operations in the United States, Canada, and 135 foreign countries and jurisdictions.

He previously served as the executive secretary and chief executive officer of the Association of American Chambers of Commerce in Latin America and is executive secretary of the International Insurance Advisory Council of the U.S. Chamber of Commerce.

He is a member of the Council on Foreign Relations and trustee of the Pan American Development Foundation. He is a director of the Public Affairs Council, a member of the Advisory Board of the Council of Americas, and a member of the Foreign Policy Association in the Carnegie Center for Transnational Studies.

He appears today in his capacity as chairman of the International Service Industry Committee of the U.S. Chamber of Commerce.

Mr. ERLNBORN. Mr. Chairman, we have a recorded vote on the floor.

Mr. BROOKS. We will proceed with your statement as soon as we make that vote, Mr. Shelp.

[Recess taken.]

Mr. BROOKS. The subcommittee will come back to order.

The gentleman is recognized.

**STATEMENT OF RONALD K. SHELPH, CHAIRMAN, INTERNATIONAL SERVICE INDUSTRY COMMITTEE, U.S. CHAMBER OF COMMERCE; ACCOMPANIED BY GORDON J. CLONEY, EXECUTIVE SECRETARY**

Mr. SHELPH. Thank you, Mr. Chairman.

After that very gracious introduction and the whole committee then walked out, I didn't quite know what to think, but I will proceed. [Laughter.]

With me is Gordon Cloney who is the executive secretary of the International Service Industry Committee.

The committee represents a broad spectrum of all those U.S. service industries who operate in international markets, ranging from transportation services to consulting firms, financial firms, advertising, and so forth.

With your permission, I would like to attach a list of the committee members, so you will have an indication of who we represent.

Mr. Brooks. Without objection, it is so ordered.

[The material follows:]

# Chamber of Commerce of the United States

INTERNATIONAL DIVISION

SEE - 622-0714  
 TELE - 622-0714  
 TWX - 710 222 0000  
 CABLE - 622-0714



1675 H STREET, N.W.  
 WASHINGTON, D.C. 20006

JULY 1979

## INTERNATIONAL SERVICE INDUSTRY COMMITTEE

Ronald K. Shelp, CHAIRMAN  
 Vice President and Director  
 American International Underwriters Corp.  
 70 Pine Street  
 New York, New York 10005  
 (212) 770-6898

James Badger  
 Vice President Marketing  
 Delta Steamship Lines, Inc.  
 International Trade Mart  
 New Orleans, Louisiana 70130  
 (504) 522-3492

William W. Beddow  
 Assistant to the President  
 National Constructors Association  
 1101 15th Street, N.W.  
 Washington, D.C. 20006  
 (202) 466-8880

Joel W. Biller  
 Vice President  
 International Corporate Affairs  
 Manpower  
 5301 N. Ironwood Road  
 Milwaukee, Wisconsin 53201  
 (414) 961-1000

David Birenbaum  
 Fried, Frank, Harris, Shriver  
 & Kampelman  
 600 New Hampshire Avenue, N.W.  
 Washington, D.C. 20006  
 (202) 342-3500

Marilyn Bockman  
 Vice President  
 American Association of  
 Advertising Agencies  
 200 Park Avenue  
 New York, New York 10017  
 (212) 682-2500

Charles Bowsher  
 Partner  
 Arthur Andersen & Company  
 1666 K Street, N.W.  
 Washington, D.C. 20006  
 (202) 862-3100

Joseph J. Brady  
 Executive Vice President  
 Association of Consulting  
 Management Engineers, Inc.  
 230 Park Avenue  
 New York, New York 10017

John P. Buscher  
 Director of Government Relations  
 Brown & Root, Inc.  
 1730 Rhode Island Avenue, N.W.  
 Washington, D.C. 20036  
 (202) 223-4820

Jean Caffiaux  
 Staff Vice President -  
 Government Division  
 Electronics Industry Association  
 2001 Eye Street, N.W.  
 Washington, D.C. 20006  
 (202) 457-4940

Hope H. Camp, Jr.  
 Attorney-at-Law  
 33 No. Dearborn  
 Chicago, Illinois 60602  
 (312) 782-7569

Michael J. Cohen  
 Manager  
 Public Affairs-Washington  
 American International Companies  
 1225 Connecticut Avenue, N. W.  
 Washington, D. C. 20036  
 (202) 737-6855

Donald C. Comlish  
 Vice President, International  
 Affairs  
 Air Transport Association of America  
 1709 New York Avenue, N. W.  
 Washington, D. C. 20006  
 (202) 872-4106

Sydney Cone, Esq.  
 Cleary, Gottlieb, Steen &  
 Hamilton  
 One State Street Plaza  
 New York, New York 10004  
 (212) 344-0600

Ronald Danielian  
 Executive Vice President  
 International Economic Policy  
 Association  
 1625 Eye Street, N. W.  
 Washington, D. C. 20006  
 (202) 331-1974

Carlos de Arrigunaga  
 Vice President & Senior Economist  
 Bank of America  
 41 Broad Street  
 New York, New York 10004  
 (212) 747-6200

Royce Diener  
 President & Chief Executive Officer  
 American Medical International, Inc.  
 414 North Camden Drive  
 Beverly Hills, California 92010  
 (213) 278-6200

John D. Doherty, Jr.  
 Second Vice President  
 The Chase Manhattan Bank  
 900 17th Street, N. W.  
 Room 706  
 Washington, D. C. 20006  
 (202) 833-1070

Hugh Donaghue  
 Vice President  
 Control Data Corporation  
 901 So. Highland Street  
 Arlington, Virginia 22204  
 (703) 979-3532

Thomas Fain  
 President  
 American Institute of Marine  
 Underwriters  
 14 Wall Street  
 New York, New York 10005  
 (212) 233-0550

Harry Freeman  
 Senior Vice President  
 American Express Company  
 125 Broad Street  
 American Express Plaza, 39th Floor  
 New York, New York 10004  
 (212) 480-3650

James Gaffigan  
 Assistant Washington Representative  
 American Hotel & Motel Association  
 1101 Connecticut Avenue, N. W.  
 Washington, D. C. 20036  
 (202) 223-6872

Lloyd Hackler  
 President  
 American Retail Federation  
 1616 H Street, N. W.  
 Washington, D. C. 20006  
 (202) 783-7971

Frederick K. Howard  
 Counsel  
 Johnson & Higgins  
 95 Wall Street  
 New York, New York 10005  
 (212) 482-2000

Martin Hummel  
 Executive Vice President  
 S. S. C. & B.  
 One Dag Hammarskjold Plaza  
 New York, New York 10017  
 (212) 644-5000

Joseph L. Roach  
Executive Vice President  
International Franchise Association  
1025 Connecticut Avenue, N.W.  
Suite 1005  
Washington, D.C. 20036  
(202) 659-0790

Edward C. Leeson  
Executive Director  
National Council of Technical  
Service Industries  
888 17th Street, N.W.  
Washington, D.C. 20006  
(202) 833-8540

Marvin Lurie  
Executive Director  
National Association of  
Service Managers  
6022 W. Touhy Avenue  
Chicago, Illinois 60648  
(312) 763-7350

Harold B. Malmgren  
President  
Malmgren, Inc.  
2101 L Street, N.W.  
Suite 403  
Washington, D.C. 20037  
(202) 466-8740

Albert May  
Executive Director  
Council of American-Flag Ship  
Operators  
1625 K Street, N.W.  
Suite 1200  
Washington, D.C. 20006  
(202) 466-5388

William L. Mayo  
Vice President, Marketing  
Comsat General Corporation  
950 L'Enfant Plaza, S.W.  
Washington, D.C. 20024  
(202) 554-6628

W. R. Mette  
Executive Partner  
Alexander Grant & Co.  
39th Floor - Prudential Plaza  
Chicago, Illinois 60601  
(312) 856-0001

Joseph F. Moraglio  
Director, Federal Government  
Division  
American Institute of Certified  
Public Accountants  
1620 Eye Street, N.W.  
Washington, D.C. 20006  
(202) 872-8190

Stanley Nehmer  
President  
Economic Consulting Services, Inc.  
1101 17th Street, N.W.  
Washington, D.C. 20036  
(202) 466-7720

John S. Nolan  
Attorney  
Miller & Chevalier  
1700 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006  
(202) 393-5660

Henry G. Parker III  
Director  
Chubb and Son, Inc.  
100 William Street  
New York, New York 10038  
(212) 285-6690

Seth H. Preece  
Staff Vice President -  
International Services  
Pan American World Airways  
Pan American Building  
New York, New York 10017  
(212) 880-1590

Alexander D. Roth  
Director, Washington Office  
American Federation of Information  
Processing Societies, Inc.  
1815 North Lynn Street  
Suite 805  
Arlington, Virginia 22209  
(703) 243-3000

Peter Ruof  
Program Officer  
The Ford Foundation  
320 East 43 Street  
New York, New York 10017  
(212) 573-5000

Walter A. Slowinski  
Senior Partner  
Baker & McKenzie  
815 Connecticut Avenue, N. W.  
Washington, D. C. 20006  
(202) 298-8290

Oliver Smoot  
Vice President  
Computer & Business Equipment  
Manufacturers Association  
1828 L Street, N. W.  
Washington, D. C. 20036

Larry Spiller  
Deputy Executive Vice President  
American Consulting Engineers  
Council  
1155 - 15th Street, N. W.  
Suite 713  
Washington, D. C. 20005

George C. Spina  
Director of Research  
Institute for International &  
Foreign Trade Law  
600 New Jersey Avenue, N. W.  
Washington, D. C. 20001

George Stockton  
Director  
The Associated General Contractors  
of America  
1957 E Street, N. W.  
Washington, D. C. 20006

Campbell Thomson  
Deputy Director  
Federation of American Hospitals  
1101 17th Street, N. W.  
Suite 310  
Washington, D. C. 20036  
(202) 833-3090

Raymond J. Waldmann  
Attorney-at-Law  
Schiff, Harding & Waite  
1101 Connecticut Avenue, N. W.  
Suite 60  
Washington, D. C. 20036  
(202) 857-0600

William B. Walton  
Vice Chairman of the Board  
Holiday Inns, Inc.  
1052 Brookfield Road  
Memphis, Tennessee 38117  
(901) 362-4001

Gordon J. Cloney  
Director, Special Policy Development  
International Division  
Chamber of Commerce of the U.S.  
1615 H Street, N. W.  
Washington, D. C. 20062  
(202) 659-3054

International Service Industry Committee

The bulk of post World War II economic growth in the United States has occurred in the service sector. U.S. Commerce Department data indicates that today, roughly 60 percent of the private sector's contribution to the GNP and 65 percent of private sector employment is generated by service industries. The importance of the service sector to the U.S. economy has been reflected with a time lag in the composition of U.S. foreign commerce. Today, the U.S. is the largest exporter of what may be called "invisible products." In 1978, the U.S. services trade account provided a gross surplus of \$23 billion.

The emergence of services in U.S. foreign commerce reflects in part a growing international market for services in both industrial and less developed countries. Some countries have also begun to create barriers to limit foreign entry into their domestic services market, a problem complicated by the lack of international norms for services trade and its treatment by governments. Thus, when the Trade Act of 1974 gave the President the authority to negotiate reductions in barriers to trade in both goods and services, the U.S. became the first country to attempt broaching service industry problems in multilateral negotiations.

The 1974 Trade Act provisions led to recognition that information on service trade and related problems was available only in the most general form. To begin to resolve this dilemma, a White House inter-agency task force carried out public hearings with representatives of 18 service industries. The results were presented in a 1976 Commerce Department report, "U.S. Service Industries in World Markets." This for the first time identified the role of service industries in U.S. foreign commerce concluding that although the sector is of major and growing importance to U.S. trade, it was virtually ignored by trade policy processes in the U.S. as well as with multilateral organizations.

The report's 27 recommendations for federal policy action, therefore, went beyond the multilateral trade negotiations area, proposing a wide range of initiatives. Categorized into general groups, the recommendations were:

- to introduce service industry trade problems into the MTN on a selective basis.
- to treat certain specialized service industry problems on a industry sector basis through existing industry-specific fora.

to increase emphasis on the investment related problems of service industries within existing investment fora.

- to improve the ability of the U.S. government to analyze and respond to service trade problems by strengthening the data-gathering and policy-formulating resources directed toward this sector.
- to establish improved inter-agency coordination in addressing service industry international problems within the federal structure.
- to establish a strengthened consultative process through which service industry viewpoints and concerns can be channeled to government for response.

In 1977 the executive branch began to act along the lines recommended in the report. A small number of barriers to service trade believed most suitable for current negotiations has been introduced at the GATT. The 1978 reorganization of the Commerce Department included creation of service industry divisions in both international and domestic areas.

In 1978, following an earlier meeting at U.S. Chamber headquarters involving the Special Trade Representative's Office, the Commerce Department and service industry representatives, the private sector representatives concluded that a permanent structure was needed in the Chamber to represent the international concerns common to all U.S. service industries. As a result, the International Service Industry Committee was established.

The International Service Industry Committee brings together representatives of American service industry firms and service industry trade associations to:

- 1) act jointly to foster the freer flow of U.S. services into world markets;
- 2) provide leadership to international private sector efforts to reduce barriers to service trade;
- 3) exchange information on international and domestic developments affecting U.S. service industries in world markets and to respond to such developments;
- 4) provide a vehicle for the members to monitor government initiatives and policy affecting international service industries in general and which can also serve as a sounding board for such government initiatives and policy; and



- 5) develop data and undertake or encourage research on issues related to these objectives

To advance these purposes, the committee monitors issues which affect U.S. service industries in world markets. These include:

- Trade in services with priority being given to developments within the GATT and the OECD.
- Introduction of service industry concerns into multi-lateral foreign investment discussions.
- U.S. government efforts to create a national export policy.
- U.S. antitrust policy
- U.S. taxation policy
- Labor organization relations
- The development of service industry data
- International organizations which are giving increasing attention to invisible trade
- Multilateral discussions dealing with technology transfer

The committee's members are invited to serve by the President of the U.S. Chamber. The members represent service industry trade associations, service industry firms and technical experts. The secretariat is provided by the U.S. Chamber. The committee draws on the expertise and technical resources of individual member firms and associations to monitor and analyze issue areas. The committee can propose policy initiatives to the National Chamber's International Policy Committee or any of its subcommittees, as appropriate.

For additional information, contact GORDON J. CLONEY, director special policy development, Chamber of Commerce of the U.S., 1615 H Street, N.W., Washington, D.C. 20062; (202) 659-3054.

Mr. **SHELP**. As you know, the Chamber of Commerce has endorsed the President's reorganization plan. In fact, I have here for your consideration a letter from the president of the chamber to President Carter which I would like to have included in the record.

Mr. **BROOKS**. Without objection, it is so ordered.

[The material follows:]

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

October 2, 1979

Mr. Ronald Reagan  
PRESIDENT

1615 H Street, N.W.  
WASHINGTON, D.C. 20002  
202 639 6211

The President  
The White House  
Washington, D.C. 20500

Dear Mr. President:

We have studied carefully the Administration's Reorganization Plan No. 3 of 1979 and your accompanying message of September 25 to the Congress.

I am pleased to express our general support for your reorganizational scheme. Our support is based on the belief that by strengthening and consolidating pertinent governmental functions, the Government will be better positioned to work with the business community in the process of strengthening our competitive stance in world markets.

We are certain that more effective institutional arrangements will enhance the prospects for developing and implementing the kinds of policies and programs that we need to pursue the national export priority goal that you set for the nation in your statement of September 1978.

Earlier this year, significant progress was made in creating greater foreign market access for U.S. goods with the successful completion of the Tokyo Round of Multilateral Trade Negotiations and the subsequent passage of the implementing legislation by the Congress. We trust that your reorganization proposal will find equivalent support in Congress and that it can be implemented promptly.

As refinements are made in the plan over the next 60 legislative days, we would call your attention to one aspect of the plan that we believe merits expansion. You are aware of the increasingly important role of service industries not only in our domestic economy but in our international trade as well. The policy requirements of service industries, therefore, should

be recognized by vesting the U.S. Trade Representative with the lead responsibility for setting policy on trade in services. This action would formally resolve problems deriving from the traditional neglect of services by our foreign economic policy mechanisms.

We in the U.S. Chamber have appreciated the opportunity to contribute our thoughts and views in the formulation of your plan. We congratulate the numerous people in your administration who played an active part in developing the plan, and we have been very pleased with the spirit of close cooperation that has prevailed between our and your representatives throughout this process. Now we will encourage the members of Congress to act favorably on your plan.

Sincerely,

Richard L. Leshner

cc: The Honorable Rubin Askew, Special Trade Representative  
 The Honorable James McIntyre, Director, Office of Management  
 and Budget  
 The Honorable Juanita M. Kreps, Secretary of Commerce  
 The Honorable Luther J. Hodges, Jr., Undersecretary of Commerce  
 Harrison Wellford, Executive Associate Director, Office of  
 Management and Budget  
 Thomas Belford, Associate Director for Reorganization,  
 Executive Office of the President

**Mr. SHELPS.** In that letter, one thing that is of concern to the chamber is stressed: That is how the reorganization plan deals with the problems of service industries in the U.S. trade. That is what I would like to limit my brief comments to today.

We have a basic theme, Mr. Chairman. That theme is that the development of a world economy where services are of growing importance has moved ahead of policymakers' perceptions.

That is reflected, first, in data. As you know, 7 out of 10 working Americans are employed in services. Approximately 65 percent of our gross national product is generated by services. Last year we had a \$23 billion surplus in the services account of our balance of payments. This is one of the few positive factors in the balance of payments.

Yet this does not seem to be recognized and translated into Government policy, and especially trade policy.

The best way I can illustrate that is to give you a few examples of the oversights.

No. 1, though U.S. services may suffer from import competition, the trade adjustment assistance provisions of trade legislation are not available to service producers.

No. 2, the Webb-Pomerene export promotion provisions do not apply to services.

No. 3, the DISC legislation is applicable to only two service industries.

No. 4, the export promotion programs of the Commerce Department ignore most services.

No. 5, the data collection mechanism of the U.S. Government is not organized to concentrate on service flows.

Finally, other Government programs to facilitate exports, such as the Export-Import Bank, refuse to assure that certain U.S. services have a competitive chance to bid on service business related to Export-Import Bank transactions.

In short, although we have an economy where U.S. services are important, our trade policy seems to overlook that fact again and again.

The real question is: How does the President's reorganization plan address this shortcoming in our policy?

Thanks to congressional support, which historically can be traced to 1974 when Congress had the wisdom to include services in the Trade Act for the first time in the history of U.S. legislation, and thanks to continuing congressional support on this position, some progress has been made. We have discussed this with the administration ourselves and can see progress.

But there are still some shortcomings that are addressed in my written statement.

There is one primary issue that I wish to address. That concerns the new U.S. Trade Representative's Office and how it deals with services. It clearly has the lead in policymaking, as it should have. But it is very ambiguous whether this lead in policymaking will be applicable to providing leadership to correct past deficiencies and develop the proper policies dealing with services.

The reorganization plan gives the Commerce Department a specific mandate as far as administering our trade policy. It is silent when it comes to the U.S. Trade Representative's Office.

This would be very easy to correct. It only requires consistency with the legislation which you enacted in 1974 where, throughout the Trade Act, commerce and trade are defined as including services.

If that were reemphasized once again—and it does not mean re-writing the act—it would make clear the USTR's mandate. It could be easily clarified in a statement by the administration in the Executive order that finally establishes the way the new U.S. Trade Representative's Office will work.

A second related point is people. I heard your discussion this morning with Congressman Vanik.

At present, I would estimate that there is probably one person who more or less gives the majority—but not all his time—to services. If this is the fastest growing sector in the U.S. economy, and there is approximately a \$23 billion surplus, this is nowhere near enough.

We would hope you would urge the administration to assign the proper number of personnel in the new trade office so that this major sector can be adequately dealt with.

In conclusion, Mr. Chairman, the United States cannot afford to have the needs and problems of our international service industry subrogated to the more traditional concepts of trade, as has been the case in the past.

Services, which in balance-of-payments terms constitute one-third of our earnings from trade, should not suffer further neglect. With few but some very important adjustments, especially the one I have suggested, the administration's reorganization plan would vastly improve the existing situation.

Thank you.

Mr. Brooks. I want to thank you very much.

We will have your entire prepared statement made a part of the hearing record at this point.

[Mr. Shelp's prepared statement follows:]

STATEMENT  
 on  
 SERVICE INDUSTRY ASPECTS  
 of  
 REORGANIZATION OF GOVERNMENT PROGRAMS  
 DEALING WITH INTERNATIONAL TRADE AND INVESTMENT  
 before the  
 SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY  
 of the  
 HOUSE COMMITTEE ON GOVERNMENT OPERATIONS  
 for the  
 CHAMBER OF COMMERCE OF THE UNITED STATES  
 by  
 Ronald K. Shelp  
 October 18, 1979

I am Ronald K. Shelp, vice president and director of the American International Underwriters Corporation and the Chairman of the International Service Industry Committee of the Chamber of Commerce of the United States. I appreciate the opportunity to appear before this Subcommittee. Accompanying me is Mr. Gordon J. Cloney, director for special policy development at the U.S. Chamber and executive secretary of our committee.

The U.S. Chamber has expressed support for the reorganization plan submitted to the Congress by President Carter on September 25. The Chamber urges that it be implemented promptly.

When expressing this support for the reorganization plan, the Chamber also pointed out to the President that certain provisions relating to the trade of U.S. service industries merited expansion. I would like to comment upon this service industry aspect today. I do so in light of earlier testimony submitted on behalf of our service industry committee to the House Ways and Means Committee on September 7.

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<sup>1</sup>  
 Ronald Danielian: "Statement on Service Industry Aspects of Reorganization of Government Programs Dealing with International Trade and Investment" to the Subcommittee on Trade; House Ways and Means Committee; September 7, 1979.

Service industries deal in what are often called "invisibles"; that is intangible products such as advertising, accounting, banking, insurance, air transport, lodging, law, licensing, leasing, franchising, finance, construction, computer services, engineering, consulting, communications, data transmission, shipping, motion pictures, personnel services and others.

Services trade provided us with a surplus of \$23 billion in our balance of payments accounts in 1978. Services account for over half of our GNP and employ seven out of ten working Americans.

Over the past 30 years, the service component within our foreign trade has grown and a string of services account surpluses has been generated.

Yet U.S. trade policy concern with service industries was almost non-existent until 1974 when the Congress first recognized the service industries in the Trade Act of 1974. Also, the executive branch has had no central point for dealing with the myriad of external economic issues affecting the well-being of service industries.

Improved policy response to U.S. service industry needs is necessary to maintain the sector's positive position in our foreign trade as a net earner of foreign exchange. The present reorganization offers an excellent opportunity for the U.S. to create an improved capability for supporting and defending its international services trade.

On September 7 of this year our International Service Industry Committee (ISIC), in the testimony noted, made several suggestions on how this can be achieved. I would now like to repeat these suggestions and comment on the extent to which they are now met under the administration's reorganization plan:



ISIC Suggestion #1: We felt that the legislative history must make it clear that the needs of U.S. service industries are included in the reorganization mandate.

Status: This suggestion is only partially achieved at present.

The President's September 25 statement which accompanied the reorganization plan makes it clear that the Commerce Department will address service industry needs in a far more comprehensive manner than has been true of Commerce in the past.

However, there is no equivalent statement that the reorganized Office of the United States Trade Representative (USTR) has within its leadership responsibilities the formulation of service industry policy. This is a major omission. We feel that this oversight can easily be corrected if the administration includes in the executive order to be issued to implement the plan, a statement that "trade" includes trade in services. Such a statement, perhaps in the preamble to the executive order, will clearly establish the intention to deal with service trade matters through the USTR.

ISIC Suggestion #2: We pointed out that the reorganization should be structured so that attention can be given to the service sector at the highest executive policymaking levels. Also, service industry requirements should be recognized and integrated into all component international trade and investment functions at the operating level.

Status: We understand that in the USTR an assistant USTR is to be given responsibility for service trade matters and the USTR manpower request to OMB includes increasing the service-related professional staff from one to four professionals. The latter increase is essential and must be implemented.

In Commerce we understand that a Deputy Assistant Secretary for Finance, Industry and Services will be named and that the existing International Services Division (created at the suggestion of the Chamber in 1978) will be expanded. Moreover, the service industry sector will have designated staff in other offices dealing with trade data, international finance, investment policy, foreign business practices and trade promotion.

Two related procedural concerns have subsequently been brought to the attention of the Department of Commerce by our Committee. The first is that a coordinating point should be established in Commerce as these service industry functions would otherwise be scattered between several offices, divisions and bureaus. The second is the need for an adequate professional staff in the expanded international services division. The proposed increase from eight to 12 professionals appears minimal.

Under Secretary of Commerce Hodges has cooperated in bringing about the progress achieved to date. We hope these outstanding concerns will be responded to in a positive way. At present they remain pending.

ISIC Suggestion #3: Since services are a new area for policy and operational concern in the executive branch, we felt that annual reports on overall progress relative to dealing with U.S. service industries in international commerce might be provided to Congress.

Status: The Congress should encourage such reporting. It would appear to be possible under existing procedures.

ISIC Suggestion #4: For oversight and policy development purposes, including coordination, monitoring, data and research development, we felt there must be a specialized and highly visible group within the Commerce Department, which has the needed manpower and financial resources to stay on top of international service industry issues.

Status: This suggestion relates to Suggestion #2 above. It and is being addressed by Commerce subject to the two procedural issues already cited, i.e. a provision for adequate internal coordination in Commerce and the provision for adequate manpower in the International Services Division.

Suggestion #5: We encouraged the establishment of an interagency coordinating committee on services, as suggested by a benchmark 1976 study on the place of U.S. service industries in our foreign trade.

Status: The merit of this suggestion obviously depended on the final way in which the reorganization of government was formulated. We feel that under the present plan if the USTR has a clear policy lead for services, the appropriate interagency coordinating structure can be established through that office.

Suggestion #6: We encouraged the Congress to continue to provide firm leadership in addressing service industry needs in reorganization, just as it did in 1974 when recognition of services was placed in the negotiating authorities in the Trade Act of 1974.

Status: Several committees of the Congress and numerous congressional leaders have expressed support for our suggestions to the administration. This is of course appreciated by the industries involved. We urge continued interest as the reorganization plan is implemented.

In conclusion, Mr. Chairman, the United States cannot afford to have the needs and problems of our international service industries subrogated to the more traditional concepts of trade as has been the case in the past.

Services, which in balance of payments terms, constitute one third of our earnings from trade, should not suffer further neglect. With the few, but important, adjustments I have cited, the administration's reorganization plan would vastly improve upon the existing situation.

Mr. Brooks. I have always felt that the services were critical and were probably the best example of trade-oriented people who needed help.

We received a letter from a man with Pan Am Airlines. The airlines compete in the United States. We have three or four flying abroad, and they compete with countries. They don't compete with private entities; they compete with countries.

I have used it as my best example of why the State Department should be helping American industry—airlines and others—because they are at somewhat of a disadvantage.

Regardless of what you say, the landing rights are different. You unload your passengers way down at the end of the runway, and they have to walk a mile and a half to get to the terminal. There are many little ways in which they just keep the heat on all of our competitors in their own national interest.

You can be sure the service industries are included as a part of this reorganization plan. I think it will be a vital part.

I don't know if it is necessary to put in the report. I think if you put one thing in the report, where do you stop. But I think it is fully included, in my judgment.

Mr. Horton?

Mr. Horton. Thank you, Mr. Chairman.

I certainly want to agree with you on that.

I certainly agree with the testimony, especially with regard to services.

I also want to refer to the letter, a copy of which I received also, from John Krinsky of Pan Am.

He says:

Within the context of services, we urge also that your committee establish that international air transport services are among those service industries included. Pan Am favors the current U.S. aviation policy which encourages competition in the air transport field.

We believe that as the office of the trade representative in the Department of Commerce develops the means of supporting U.S. service exports, these activities can be supportive of the U.S. flying airlines. We wish to make certain that the U.S. flying airlines will be able to take full advantage of these activities and receive the full support of our Government, which is intended in the President's Reorganization Plan.

I would certainly agree that services should be included in the context of what we are talking about here when we talk about the word trade.

I certainly want to concur in the testimony you have given.

Mr. Chairman, I think it would be appropriate to include this letter in the record.

Mr. Brooks. Without objection, it is so ordered.

[The material follows:]

PAN AM,

Washington, D.C., October 15, 1979.

HON JACK BROOKS,  
Chairman, Committee on Government Operations,  
U.S. House of Representatives,  
Washington, D.C.

DEAR MR. CHAIRMAN: I understand that the Subcommittee on Legislation and National Security will hold hearings on the President's Reorganization Plan No. 3 of 1979, to consolidate trade functions of the U.S. Government. As a U.S. flag international airline, we endorse efforts now underway by the Ad-

ministration and the Congress to strengthen the role of the U.S. Government in support of the U.S. trade activities. We are concerned, however, that Reorganization Plan No. 3 does not specifically define "trade" as including trade in services. We urge that the Plan be amended to make this inclusion clear.

Within the context of "services," we urge also that your Committee establish that international air transport services are among those service industries included. Pan Am favors the current U.S. aviation policy which encourages competition in the air transport field. For such competition to be effective and to serve the interests of the American people and the U.S. flag airlines, it is essential that our Government do everything in its power to reduce discriminatory business practices now engaged in by foreign governments which are designed to provide competitive advantage to their own national flag airlines. We believe that as the Office of the Trade Representative and the Department of Commerce develop the means of supporting U.S. service exports that these activities can be supportive [sic] of the U.S. flag airlines. We wish to make certain that the U.S. flag airlines will be able to take full advantage of these activities and receive the full support of our Government which is intended in the President's Reorganization Plan.

I am addressing an identical letter to Congressman Horton.

Sincerely,

JOHN KRIMSKY, JR.

Mr. HORTON. Thank you very much.

Mr. BROOKS. The gentleman from Illinois, Mr. Erlenborn.

Mr. ERLENBORN. Thank you, Mr. Chairman.

I would echo what my two colleagues have said.

I couldn't help but think when the witness was testifying that one could reach a different conclusion from his testimony, since he said that the one bright spot in our balance of payments is the service industry and then ticked off a whole long list of governmental trade promotional activities the service industry is not included in.

One might reach the conclusion that you do better if you don't have the Government promotion. [Laughter.]

But I didn't reach that conclusion. I toyed with it for awhile. Instead, I will join my colleagues.

Thank you, Mr. Chairman.

Mr. BROOKS. The gentleman from Minnesota, Mr. Stangeland.

Mr. STANGELAND. I have no questions, Mr. Chairman.

Mr. BROOKS. I have one other question.

Do you feel that the adoption of Reorganization Plan No. 3 would contribute to an increase in the U.S. share of the international services market?

Mr. SHELP. I think so, Mr. Chairman, especially if it is clearly spelled out that services are included. As you have implied, it is certainly spelled out implicitly but it is time for the U.S. Government to be aggressive.

Our belief that it should be spelled out explicitly is because since traditionally there has been such neglect in this trade policy area, we are afraid our negotiating partners will not recognize that the U.S. view has really changed unless it is not specifically included in whatever way possible in the Executive order.

Mr. BROOKS. We appreciate very much your testimony.

It is a real pleasure for me to be handling a bill that the U.S. Chamber of Commerce is for.

I have had real differences with them. We have had knockdown-dragouts. For awhile I thought I was never going to have another witness that I was going to sit and listen to from the chamber.

On consumer protection, I thought they were going to go into orbit about it. [Laughter.]

I started to introduce it again just to get them back and have another round with them. [Laughter.]

Mr. SHELPS. All I can say is that the chamber is an organization with about 5 million members. Its membership is probably as diverse as the rest of society.

Mr. BROOKS. Thank you very much. We enjoyed having you and Mr. Cloney as well.

Our next witness is scheduled to be Roger Regelbrugge, who is president of Korf Industries. He is, appropriately, a native of Belgium.

He has a mechanical engineering background.

Prior to joining Korf in 1974, he worked for several companies in this country.

We are pleased to have before us today the attorney for the Korf company, who is associated with Mr. Regelbrugge, Mr. Charles Verrill.

Mr. Verrill will present the statement.

They have a small operation in my home town. We have found that Korf is a good industry, and we are glad to have them there.

**STATEMENT OF CHARLES VERRILL, COUNSEL, PATTON, BOGGS & BLOW, WASHINGTON, D.C., REPRESENTING ROGER R. REGELBRUGGE, PRESIDENT, KORF INDUSTRIES, INC.**

Mr. VERRILL. Thank you, Mr. Chairman.

I apologize for Mr. Regelbrugge's absence. He has been detained, and I am here to try to take his place.

I am the attorney for Korf Industries and with the firm of Patton, Boggs & Blow here in Washington.

I would like to request that Mr. Regelbrugge's prepared statement be made a part of the hearing record.

Mr. BROOKS. Without objection, it is so ordered.

Mr. VERRILL. The focus of Mr. Regelbrugge's testimony, which I will summarize, relates to the issue of the proper role of the Commerce Department in the administration of two specific trade laws; namely, the Antidumping Act and the countervailing duty law.

I might state in this regard that Korf is a steel manufacturer which has been long involved with proceedings under the Antidumping Act. It was involved in the establishment of the trigger price mechanism and in support of it.

As a result, Korf is most interested and concerned that these laws will be effectively administered in the future when the Trade Act of 1979 goes into effect.

The Reorganization Plan No. 3 provides in its introductory provisions that after the reorganization, the Trade Representative will, and I am quoting:

Exercise policy oversight of the application of import remedies and will, to the extent legally permissible, establish new precedents, negotiate assurances, and coordinate import remedies with other trade matters.

This commentary indicates that the Commerce Department, the administering authority for purpose of the Trade Agreements 1979 Act, may well be limited in its ability to fully and effectively implement the 1979 act by subjecting its interpretations and decisions under the countervailing duty and antidumping laws to overriding decisions by the Trade Representative.

In our view, Congress has determined that it is the policy of the United States to effectively enforce import remedies under these laws, and we do not think this policy should be undermined.

But if the Trade Representative is literally responsible for establishment of new precedents and interpretations of the countervailing duty and antidumping laws, we fear that the Commerce Department, the agency having actual experience with petitions and the practical problems raised by unfair import practices, will be denied the ability to respond creatively to the congressional mandate to effectively enforce these two laws.

Indeed, since no two cases are ever identical, it seems to me that Commerce may well find itself incapable of making final determinations in difficult cases without reviewing the legal interpretations, precedents, and so forth with the Trade Representative.

Second, we are concerned that the Trade Representative, in making final determinations under these laws, will be doing so in the broader context of its negotiating functions. Its interpretations and precedents under the countervailing duty and antidumping law could well reflect negotiating biases and objectives.

We believe, however, that enforcement and application of remedies under the antidumping and countervailing duty laws should properly remain with the administering authority—the Commerce Department—and should be independent of the influence of foreign governments seeking to limit or terminate privately initiated claims for import remedies through government-to-government initiatives.

Third, we think that the apparent ability of the Trade Representative to establish precedents or influence the disposition of pending claims could very likely result in the unwelcome introduction of specific case determinations in trade negotiations.

Finally, we are concerned that if it is perceived by the public, that disposition of legitimate private claims may be made in pursuit of other trade objectives.

Companies confronting unfair trade practices may avoid pursuing the statutory remedies under the laws that Congress has so carefully amended. Instead, we are concerned that industry may seek broader protectionist measures which would be far more destructive of free trade than the partial enforcement of the existing antidumping and countervailing duty laws.

Korf urges that this committee clarify, in whatever way it can, that the Commerce Department in the administration of these laws will be the administering authority in fact, as well as in name only.

We have recommended changes that might be made in the President's plan which I realize you have no authority to make but which the President could, and they are set forth in the prepared statement.

The final point I would like to make is that Korf has been involved



extensively in the trigger price mechanism for imported steel products. Korf intervened on behalf of the Government in defense of that mechanism a year ago and is concerned that, in the future, it will continue to be implemented.

One of the holes, if you will, that we see in the reorganization plan is that the Commerce Department will be unable to direct by any statutory measure the Customs Service, which is the actual provider of information about the trigger price mechanism, to continue to exercise those functions it has previously exercised under the Treasury Department.

We have a suggestion in the prepared testimony as to how that problem could be remedied.

We appreciate the opportunity to appear before you this morning. I would be happy to answer any questions.

Mr. BROOKS. I want to thank you very much, Mr. Verrill, for presenting a good statement. I am sure you have collaborated with Mr. Regelbrugge.

As a general principle, do you feel that the transfer of the countervailing duty and antidumping enforcement responsibilities from the Department of the Treasury to the Department of Commerce will be desirable?

Is this Mr. Regelbrugge?

Mr. REGELBRUGGE. Yes.

Mr. BROOKS. We are delighted to have you here.

Your counsel did a good job of presenting your testimony, and we are sorry that you are late.

We would address this question to you and thank you for a good statement which was presented.

Do you think that the transfer will be desirable?

Mr. REGELBRUGGE. You mean the transfer of the countervailing duties?

Mr. BROOKS. Yes, and antidumping, from Treasury to the Department of Commerce, as this reorganization contemplates.

Mr. REGELBRUGGE. Let's put it this way, Mr. Chairman.

It has been, in our opinion, properly handled in the Treasury Department. It can just as properly be handled in Commerce, as far as we are concerned.

Considering it is a trade matter, I don't believe that it is illogical to put it in Commerce.

The major concern, as Mr. Verrill has explained, is, of course, that some of these rights or some of these particular laws in fact may be subject to negotiation if it is part of the Trade Representative's implementation right.

Mr. BROOKS. I want to thank you very much.

Mr. Horton, the gentleman from New York.

Mr. HORTON. Mr. Chairman, I don't have any questions.

I want to thank both of the witnesses for being with us and for your testimony.

Mr. BROOKS. Mr. Erlenborn, the gentleman from Illinois.

Mr. ERLENBORN. I have no questions, Mr. Chairman.

Mr. BROOKS. Mr. Stangeland, the gentleman from Minnesota.

Mr. STANGELAND. I have no questions, Mr. Chairman.

Mr. BROOKS. I want to thank both of you.

Did we get the name of your associate in the record?

Mr. REGELBRUGGE. This is Mr. Scott Lowden, vice president and general counsel of Korf.

Mr. BROOKS. Thank you very much.

Mr. REGELBRUGGE. Thank you, Mr. Chairman.

Mr. VERRILL. Thank you.

Mr. BROOKS. I want to thank all of you and express my appreciation to all of the witnesses who have participated by providing valuable information on this reorganization.

The subcommittee is now adjourned.

[Mr. Regelbrugge's prepared statement follows:]

STATEMENT BEFORE THE HEARING ON TRADE REORGANIZATION  
HELD BY THE COMMITTEE ON GOVERNMENT OPERATIONS,  
UNITED STATES HOUSE OF REPRESENTATIVES

My name is Roger R. Regelbrugge. I am President and Chief Executive Officer of Korf Industries, Inc., One NCNB Plaza, Charlotte, North Carolina. Korf Industries is a diversified producer of steel products and steel related technology with principal manufacturing plants in Georgetown, South Carolina and Beaumont, Texas. Our aggregate steel production capacity is approximately 1.3 million tons per year and our primary product line is steel wire rod used in the production of most basic forms of finished wire products. We employ approximately 3,500 persons.

The Trade Reorganization Plan submitted by the President on September 24 and the transmittal statement which accompanied the plan raise questions about the administration of antidumping and countervailing duty laws which we hope will be clarified before the reorganization becomes effective. First, we seek clarification of the role of the United States Trade Representative in relation to claims brought under those statutes. Second, we seek some assurance that the transfer of antidumping responsibility from the Treasury Department to the Commerce Department will include sufficient authority to permit Commerce to utilize and maintain certain functions currently performed by the United States Customs Service.

In transmitting his proposed Reorganization Plan, the President states that the Trade Representative will "exercise policy oversight of the application of import remedies" and will, "to the extent legally permissible," establish "new precedents," negotiate "assurances" and coordinate import remedies "with other trade matters rather than case-by-case fact finding and determinations." This commentary and a certain degree of ambiguity in the language of the Reorganization Plan raise issues about the role of the Trade Representative which must be more precisely addressed and resolved before enactment of the proposed reorganization.

Specifically, we seek assurance that the United States Trade Representative would not be permitted to influence the outcome of an antidumping or countervailing duty proceedings except to the extent the 1979 Trade Act permits suspension of investigation pursuant to agreement. It would be inappropriate in our judgment for the Commerce Department - the administering authority - to be limited in its ability to fully and effectively implement the 1979 Act by subjecting its interpretations and decisions under the countervailing duty and antidumping laws to override by the Trade Representative. Congress has determined that it is the policy of the United States to effectively enforce

import remedies under these laws and this policy should not be undermined by the creation of a two-headed administering authority with one head more important than the other.

If the Trade Representative is literally responsible for "establishment of new precedents" and "interpretations" of the countervailing duty and antidumping laws, the Commerce Department, while nominally the administering authority, will be limited to application of those precedents on a case-by-case basis. We believe this will have some unfortunate consequences.

First, Commerce - the agency having actual experience with petitions and the practical problems raised by foreign unfair import practices - will be denied the ability to respond creatively to the Congressional mandate to effectively enforce the antidumping and countervailing duty laws. Since no two cases are ever identical, Commerce may well find itself incapable of making final determinations without reviewing the legal interpretation with the Trade Representative or seeking a precedent determination. Thus Commerce will be an administering authority in name only.

Second, the Trade Representative in making interpretations and setting precedents will be doing so in the

broader context of its negotiating function. Its interpretations and precedents could reflect negotiating biases and objectives. The ability of the Trade Representative to bargain away legitimate private claims contradicts the intent of Congress in the 1979 Trade Act to ensure an even-handed, non-discretionary enforcement of the antidumping and countervailing duty laws. The administration, enforcement and application of remedies under the antidumping act and countervailing duties laws should properly remain with the administering authority, and should be independent of the influence of foreign governments seeking to limit or terminate privately initiated claims for import remedies through government to government initiative or by linking such claims to unrelated trade issues being negotiated by the Trade Representative.

Third, far from being a "bargaining chip," the apparent ability of the Trade Representative to establish precedents or influence the disposition of pending claims will very likely result in the unwelcome introduction of complex, unrelated, and often emotional issues to the bargaining table. Trade representatives of governments with industries having unfair trade claims pending against them in the United States will ask for relief from these claims as a matter of course. They may ask for termination of such

claims as a condition to any negotiation. Issues of law enforcement subject to resolution by administrative proceedings do not belong at a bargaining table. It is certainly unrealistic to believe that substantive trade concessions would be granted in return for terminating or otherwise negatively influencing such claims. On the other hand, we believe that the clear expression of statutory intent to utilize the Office of the United States Trade Representative to support the enforcement of legitimate claims of unfair trade practices and to resolve some of the problems from which such claims arise will enhance both its bargaining position and its ability to negotiate agreements in the national interest. If it is made clear that the United States Trade Representative is empowered to act only in support, and cannot make a negative disposition, of pending claims, foreign trade representatives are unlikely to raise the claims as a bargaining issue. The United States Trade Representative could however discuss claims on its own initiative and seek resolution of the broader underlying issues.

Finally, if it is perceived by the public that arbitrary disposition of legitimate private claims may be made in pursuit of other trade objectives, companies confronting unfair trade practices may be discouraged from

pursuing statutory remedies. Instead, industry is likely to seek broader protectionist measures which could be far more destructive of the free trade objectives of this Administration than the impartial enforcement of our existing laws. For example, when Bethlehem Steel and Youngstown Sheet and Tube closed major plant facilities, partly in response to competitive pressures of foreign imports, political pressure mounted for drastic remedies, including the negotiation of quotas for imported steel products. In response, the Treasury Department developed an efficient method for detecting and investigating antidumping violations at the point of entry into the United States. The program, which was initiated by Anthony Solomon, the Under Secretary of the Treasury for Monetary Affairs, is known to our industry as the Trigger Price Mechanism (or "TPM"). The TPM operated with considerable success and forestalled an industry-wide movement toward protectionist legislation. At the same time, the TPM has never prevented, restricted or threatened the free movement of imported steel except at prices which importers know to be in violation of our antidumping statutes.

Many people in our industry were surprised when Korf Industries, a transnational company with European ownership, brought antidumping claims against European importers and actively supported the TPM. We did so because we believe



that effective enforcement of fair trade laws, long in existence in this country and well known to our primary trading partners, is a mainstay of our policy of free trade. We must recognize that free trade, like competition, can only work if the rules of the game are enforced equitably and consistently. We must further recognize that the economic system of our country is unique. Governments of Europe and Japan, through ownership or close association, play a direct role in the business conduct of their basic industries. British Steel Corporation, one of the largest steel producers in the world, suffers staggering losses year after year. Nevertheless, because they are owned by the British Government they cannot fail financially (except by an extraordinary act of political will). British Steel Corporation is not constrained by free enterprise economics. When we brought a claim late in 1977 against British Steel for dumping wire rod in United States markets, the results of a preliminary investigation by Treasury disclosed dumping margins of eighty-three percent below fair value! We later dropped our claim in support of the TPM. But we learned a hard lesson. Our two plants in the United States are among the most modern and cost efficient in the world. Yet we cannot compete in our own domestic market with a giant foreign importer willing to sustain deep losses over a long term without regard to the economic consequences.

We respectfully request that the President's Reorganization Plan adopt the following language changes or equivalent wording to assure that the role of the Trade Representative will support rather than inhibit the enforcement of our antidumping and countervailing duty laws:

First, delete Section 1(b)(3)(D).

Second, add Section 1(b)(5) to read as follows:

"The Trade Representative shall provide advice regarding United States trade policy to the Secretary of Commerce and shall support that department in the enforcement of the countervailing duty and antidumping function under Section 303 and Title 7 of the Tariff Act of 1930."

Third, at Section 2(a) at the end of the paragraph add: "and shall be the 'administering authority' for purposes of Section 771 of the Trade Agreements Act."

These changes would ensure the primacy of one agency - Commerce - in implementing the revised antidumping and countervailing duty laws. They would eliminate the potential for erosion of public confidence in the intention of the Executive Department to fully - and even-handedly - implement the expressed will of Congress in providing a clear statutory basis for dealing with dumping and subsidies which have been characterized by the Senate Finance Committee

as two of the most pernicious practices adversely affecting United States commerce.

Our second recommendation is to mandate interagency cooperation to assure the efficient administration of antidumping responsibilities by the Commerce Department. Antidumping enforcement frequently requires the assistance of Customs officials to monitor and transmit information about imported products to the administering authority. As we have indicated, the statistical data and affidavits obtained by the Customs Service at ports of entry into the United States are the keystone of effective enforcement of the Trigger Price Mechanism in the steel industry. While the Customs Service will remain in Treasury, their reporting responsibility in antidumping matters will shift from the Office of Tariff Affairs within the Treasury to an equivalent section of Commerce. We believe it is appropriate to seek some assurance through legislative direction and an implementing interagency agreement, that Customs will continue to carry out its antidumping functions under the authority of the Commerce Department. We therefore respectfully request adoption of the following language change or equivalent wording in the President's Reorganization Plan:

At Section 5(a)(1)(C), line 6 after "Secretary," insert "shall conduct such inquiries and promptly compile and furnish such data as may be directed by the Secretary."

We hope that our recommendations will be viewed as constructive changes in the President's Reorganization Plan. We believe that their implementation will improve the administration of our unfair trade laws and in so doing will enhance the effectiveness of our overall national trade policy.

[Whereupon, at 10:50 a.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

# APPENDIX

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## ADDITIONAL STATEMENTS SUBMITTED FOR THE RECORD

STATEMENT BY  
NATIONAL MACHINE TOOL BUILDERS' ASSOCIATION  
BEFORE THE  
SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY  
COMMITTEE ON GOVERNMENT OPERATIONS  
U. S. HOUSE OF REPRESENTATIVES  
OCTOBER 16, 1979

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### I. Introduction

The National Machine Tool Builders' Association is a national trade association representing over 370 American machine tool manufacturing companies, which account for approximately 90% of the United State's machine tool production.

Although the total machine tool industry employs approximately 100,000 people with a combined annual output of around \$3 billion, most NMTBA member companies are small businesses with payrolls of 250 or fewer employees.

While relatively small by some corporate standards, American machine tool builders comprise a very basic segment of the U.S. industrial capacity, with a tremendous impact on America. It is the industry that builds the machines that are the foundation of America's industrial strength. Without machine tools, there could be no manufacturing; there would be no trains, no planes, no ships, no cars; there would be no power plants, no electric lights, no refrigerators and no agricultural machinery.

(237)

Indeed, economists and government officials increasingly have come to recognize that the machine tool industry is an excellent barometer for measuring the economic health of the nation.

We welcome this opportunity to comment on the Administration's proposed trade reorganization proposal. We hope that our observations and suggestions, based upon wide experience in international trade on behalf of the U.S. machine tool industry, will be particularly valuable in the evaluation of the trade reorganization proposal now before this Committee.

## II. National Machine Tool Builders' Association Export Promotion Activities

NMTBA and its member companies have devoted considerable time and effort to increasing exports.

NMTBA, on behalf of the American machine tool industry is devoting its own resources to the development and maintenance of international markets everywhere in the world. The Association has three people who spend virtually their full time overseas promoting United States machine tool exports with considerable assistance from the Department of Commerce.

NMTBA develops seminars and workshops to train our members' people on international financing, export licensing, or any other subject that will benefit a machine tool builder. We conduct market research to locate new and promising markets for industry development. We have conducted twenty-four Industry Organized, Government Approved (IOGA) trade missions to help

gain a foothold in these new markets, and more are planned for 1979 and 1980. We sponsor foreign exhibitions so that our members will have more opportunities to display their products overseas. In addition, we often work in close conjunction with the Commerce Department on such activities as recruiting exhibitors for export promotion events such as catalog shows, video tape shows and technical seminars. We organize reverse trade missions to bring foreign buyers to our plants. And we bring large groups of foreign visitors to the International Machine Tool Show in Chicago every two years. The Commerce Department has worked closely with us in the development and implementation of these programs, as have the commercial officers in our embassies and trade centers around the world.

### III. International Trade Reorganization Plan

The Carter Administration has proposed a major reorganization of Federal Government trade functions designed to strengthen the U.S. position in international markets by expanding exports, improving enforcement of trade laws, and upgrading trade activities consistent with the new Multilateral Trade Agreements (MTA). This reorganization, which will centralize authority for U.S. trade actions and will provide the leadership required for the development and implementation of trade policy, consists of four principal elements:

1. The creation of a new Cabinet rank office of the U.S. Trade Representative, which would replace the current Special Trade Representative (STR) post, and be imbued with increased responsibility for trade policy;

2. The strengthening of the Commerce Department's domestic and international trade functions, and the creation of the Office of Under Secretary for International Trade, which would have primary responsibility for non-agricultural trade program implementation;
3. The establishment of a Trade Policy Committee, an interagency coordination group chaired by the Trade Representative, which would be responsible for developing general U.S. trade policy;
4. The creation of a Trade Negotiation Committee, which would essentially be a creature of the Trade Policy Committee charged with the specific task of coordinating and managing specific trade negotiations consistent with policy objectives.

We strongly support the underlying philosophy of this reorganization and believe that the above described administrative structure would be most effective in achieving:

1. Centralized authority for U.S. trade activities;
2. Improved coordination between trade and other U.S. policy objectives;
3. Upgraded priority for government trade activities;
4. Establishment of a strong authoritative voice for trade policy in the Executive Office of the President;
5. Focused responsibility on one Cabinet Department for non-agricultural government trade activities; and
6. Strengthened interagency consultative processes on trade policy matters.

We feel that the tripartite structuring of this new international trade administrative apparatus is theoretically sound in that it provides for:



1. A streamlined senior executive post, the Office of the U.S. Trade Representative, with close access to the President;
2. Interagency coordination through the Trade Policy Committee; and
3. Implementation, management and enforcement of the MTA and other existing trade agreements and laws by the already experienced Commerce Department.

Furthermore, the combining of both domestic and international trade functions within one department recognizes the fact that business is now conducted on a worldwide basis, and that trade is a global function, rather than a national or regional endeavor. Artificially dividing domestic and international trade functions into separate departments would therefore be counter-productive to the kind of coordination necessary to take full advantage of the new global markets.

One specific element of the trade reorganization plan which we feel is particularly noteworthy is the very significant and helpful innovation which would transfer foreign service commercial officers from the jurisdiction of the State Department to that of the Department of Commerce. Such a realignment of foreign service personnel would both: (1) strengthen the role of commercial officers, by supplying them with the technical backup assistance of a department concerned primarily with the interests of commerce and trade rather than politics and diplomacy; and (2) more clearly define the professional career paths of the individuals involved in this specialized foreign commercial service.

Relative to one other aspect of this reorganization plan which has received some criticism, we make particular note of our support for the transfer of the antidumping and countervailing duty functions from the Department of the Treasury to the Commerce Department. This is a logical step in the consolidation of international trade administrative functions. We would further recommend that the Commerce Department and the U.S. Trade Representative should work in consultation on these matters, but that the Department of Commerce's final determination not be subject to disapproval by the Trade Representative.

We are aware that there are a number of other criticisms of this proposed restructuring plan which fault it for not providing a specially tailored solution to every individual problem in the current system. In response to these concerns we would suggest that this proposed reorganization of the international trade functions of the U.S. Government should not be viewed as a panacea to all the contemporary maladies of U.S. exporters. Rather, it must be viewed in the proper perspective -- that is, the restructuring to manage the Multilateral Trade Agreements which will become operative the first of next year, as well as other new and existing foreign trade programs. Furthermore, its critics, and supporters we might add, must understand that this executive department reorganization plan is generically not the proper vehicle for remedying problems which should be addressed by Congressionally enacted legislation.

Moreover, reorganization plans are by their very nature designed to rapidly implement necessary executive branch administrative functions, without becoming entangled in Congressional debate over substantive policy decisions. Such is very definitely the situation in this case, as it is imperative that we have an effective international trade administrative capacity firmly in place by January 1, 1980 in order to be able to take full advantage of the new trade benefits that will become available as a result of the recently concluded Multilateral Trade Agreements.

Once this administrative restructuring has occurred, it will then be Congress' function to enact export promotion programs that will move the U.S. forward in assuming its rightful place in world markets once again.

In short, this reorganization plan should be viewed as the Executive crucible into which the Congress must now be charged with the duty of pouring the white hot mettle of renewed and vigorous American export promotion programs and initiatives.

#### IV. Conclusion

In conclusion, we thank this Committee for its interest in the vital area of international trade. We believe that the above described executive branch international trade reorganization plan in conjunction with other specific export promotion proposals would greatly encourage companies not presently active in export trade to become so involved, and to assist industries such as our own to remain vigorous in this increasingly important business arena.

**CORNING**

Corning Glass Works  
 Corning, New York 14830  
 Tel: 974-8000

October 25, 1979

The Honorable Jack Brooks  
 Chairman, Subcommittee On  
 Legislation and National  
 Security, Committee On  
 Government Operations  
 United States House of Representatives  
 Washington, D.C. 20515

**RECEIVED****OCT 25 1979**

Legislation and National  
 Security Subcommittee

Re: Reorganization Plan No. 3 of 1979

Dear Chairman Brooks:

Please accept my thanks and appreciation for the opportunity of submitting this letter as part of the record of your Subcommittee's hearings regarding President Carter's plan for reorganizing the various Executive Department functions related to international trade.

For the record my name is Henry F. Frailey. I am a vice president of Corning Glass Works, Corning, New York. For over ten years my company has been involved in efforts to stop what it believes is unfair and excessive importation of television receivers into this country. I personally have served as Chairman of the Imports Committee, Tube Division of the Electronic Industries Association which has been very active in its efforts to secure proper enforcement of the Antidumping Act of 1921. I have also been active in an organization called COMPACT, the Committee to Preserve American Color Television. COMPACT is a Labor-Industry Coalition formed in 1976 to promote fair international trade and to stop what it feels is unfair and excessive importation of television receivers into this country.

Since the early 1960's tens of thousands of jobs have been lost in America's consumer electronics industry because of imports. The television industry and its workers can testify from bitter experience about the failure of our laws and the people who administer them to prevent unfair trade practices. The comments I offer today are based on my long experience in working with these organizations in attempting to deal with these problems. These comments are my own views and are not offered as the views of either COMPACT or the Electronic Industries Association.

I believe that the effectiveness of our antidumping law requires that its administration be certain, predictable and

effective. Unfortunately, these characteristics do not describe the present administration of our antidumping law.

On March 10, 1971 the Secretary of the Treasury entered a formal dumping finding with respect to television receivers from Japan, T.D. 71-76. 36 F.R. 4597. This formal finding was preceded by a finding by the Secretary of the Treasury that television receivers from Japan were being dumped in this country illegally and a unanimous determination by the Tariff Commission (now the International Trade Commission) that an industry in this country was being injured by that illegal dumping.

Documents available in the public reading file at the United States Customs Service indicate that several hundred million dollars in dumping duties may be due on television receivers imported since 1971; yet the great bulk of these duties remain unassessed and uncollected.

I believe that the failure of the Treasury Department to enforce the Antidumping Act of 1921 properly is the result of a long standing and deep seeded philosophical bias against the purposes of that Act. It is sincerely hoped that the enforcement of the new antidumping provisions contained in the Trade Agreements Act of 1979, Public Law 96-39, will experience more hospital treatment in the Department of Commerce. While those who have been dissatisfied with the Treasury Department's shortcomings in this regard generally welcome the new venue for antidumping matters in the Department of Commerce, there are several concerns regarding the proposed reorganization.

The proposed reorganization plan places overall responsibility for the coordination of trade policy with the new United States Trade Representative acting in concert with the inter-agency Trade Policy Committee. The Trade Representative will act as a "neutral broker" to help resolve trade policy issues which arise because of the differing goals and objectives of the various executive departments and agencies. This is a sound organizational concept which should contribute substantially to the formulation of a well coordinated national trade policy.

While the establishment of a central figure to coordinate our nation's trade policy is a welcome development, it would be a

serious mistake to deprive the heads of individual agencies of their policy making roles with respect to the specific statutes which they are legally responsible for enforcing. The responsibility for enforcing the antidumping provisions of the Trade Agreements Act of 1979 falls on the "administering authority." See §771(1) of the Tariff Act of 1930 as created by §101 of the Trade Agreements Act of 1979, Public Law 96-39, 93 Stat. 176. Under the proposed reorganization plan the administering authority would be the Secretary of Commerce. In my judgment the new Trade Representative's role of policy coordination should not be deemed to preempt the Secretary's ultimate enforcement responsibility under the organic statute.

Prior to submitting Reorganization Plan No. 3, some consideration was given to transferring enforcement responsibility for antidumping and countervailing duty cases to the U.S. Trade Representative. In his testimony of October 16, 1979 to your Subcommittee, James T. McIntyre, Jr., Director of the Office of Management and Budget, expressed the fear that "combining lead negotiating responsibility with enforcement could create the appearance that CVD and antidumping cases would be matters for negotiation rather than enforcement." If the proposed plan were deemed to place ultimate policy responsibility on the enforcement of the antidumping law with the U.S. Trade Representative, then Mr. McIntyre's fears could well be realized.

Under Reorganization Plan No. 3 of 1979 the transfer of policy and interpretation functions regarding antidumping and countervailing duty law to the U.S. Trade Representative has been limited so that such transfer applies only to the extent "consistent with any other law." See Section 1(b)(3) of the Plan. I strongly urge this Committee to recognize that the ultimate policy responsibility for enforcement of the antidumping law will rest with the Secretary of Commerce pursuant to the provisions of Section 771(1) of the Tariff Act of 1930, as amended by Section 101 of the Trade Agreements Act of 1979, 93 Stat. 176. While the Secretary will undoubtedly wish to consult with the U.S. Trade Representative on these matters, nothing in the Reorganization Plan should be deemed to disturb the policy and administrative responsibilities conferred upon by the Secretary by the substantive provisions of the antidumping law.

The second problem which I would like to raise with the Subcommittee concerns the attempted transfer of functions under Section 617 of the Tariff Act of 1930, 19 U.S.C. 1617, from the Secretary of Treasury to the Secretary of Commerce. This section

authorizes the Secretary of the Treasury to compromise "claims arising under the customs laws." The position of the Department of Justice is that the "claims" referred to in 19 U.S.C. 1617 also relate to duties which may be owed under our antidumping or countervailing duty law. Careful research into the origin of the language presently codified in 19 U.S.C. 1617 leaves no doubt that this provision is inapplicable to antidumping duties and countervailing duties, and applies only to the compromise of fines, penalties and forfeitures. A legal memorandum analyzing the history of this provision is attached to this letter for the benefit of the committee.

The antidumping law mandates that dumping duties be assessed in accordance with a very specific and precise formula once an antidumping order has been published. I am not aware of a single instance prior to the television dumping case where the Secretary of the Treasury has claimed authority to compromise the assessment of dumping duties under 19 U.S.C. 1617.

We urge that the Subcommittee reaffirm the original Congressional intent when the language of 19 U.S.C. 1617 was originally enacted, that that provision has no applicability to antidumping and countervailing duty cases. Otherwise, the compromise of the duties owed under the antidumping law will effectively negate the remedial and deterrent purposes of the law.

I hope that you find these comments both useful and constructive.

Very truly yours,

  
Henry F. Frailey

HFF:gz

LAW OFFICES  
**HANNA & CULLEN**  
 SUITE 478  
 2880 M STREET, N.W.  
 WASHINGTON, D.C. 20037  
 (202) 293-3204  
 TELEX 440478 HCLAW

PAUL D. CULLEN  
 RAY L. HANNA  
 FRED M. DALY

October 24, 1979

6 FRANKFURT AM MAIN  
 AM SALEMUS 4  
 WEST GERMANY  
 (0611) 281647/48

RECEIVED

OCT 25 1979

Legislation and National  
 Security Subcommittee

Mr. Henry F. Frailey  
 Vice President  
 Corning Glass Works  
 Corning, New York 14830

Dear Mr. Frailey:

You have asked for our opinion as to whether the authority to settle claims within the meaning of 19 U.S.C. 1617 includes the authority to settle or compromise the assessment of special dumping duties within the meaning of the Antidumping Act of 1921, 19 U.S.C. 160 et. seq. 19 U.S.C. 1617 reads as follows:

Upon a report by a customs officer, United States attorney, or any special attorney, having charge of any claim arising under the customs laws, showing the facts upon which such claim is based, the probabilities of a recovery and the terms upon which the same may be compromised, the Secretary of the Treasury is authorized to compromise such claim, if such action shall be recommended by the General Counsel for the Department of the Treasury.

An examination of the legislative origin of this provision raises substantial doubt as to whether this authority extends beyond the settlement of fines, penalties and forfeitures.

Section 1617 must be read in the context of its original setting as Chapter 356, Section 617 of the Tariff Act of 1922. Here, as one of three enforcement provisions, the real intent of Congress can be discerned.

Sections 616, 617 and 618 of the 1922 Act read as follows:

SEC. 616. COMPROMISE OF CLAIMS. -- It shall not be lawful for any officer of the United States to compromise or abate any claim of the United States arising under the customs laws for any fine, penalty, or forfeiture, and any such officer



who compromises or abates any such claim or attempts to make such compromise or abatement, or in any manner relieves or attempts to relieve any person, vessel, vehicle, merchandise, or baggage from any such fine, penalty, or forfeiture shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not more than \$5,000 or by imprisonment for a term of not exceeding two years: Provided, That the Secretary of the Treasury shall have power to remit or mitigate any such fine, penalty, or forfeiture, or to compromise the same in the manner provided by law.

SEC. 617. SAME. -- Upon a report by a collector, district attorney, or any special attorney or agent, having charge of any claim arising under the customs laws, showing the facts upon which such claim is based, the probabilities of a recovery and the terms upon which the same may be compromised, the Secretary of the Treasury is hereby authorized to compromise such claim, if such action shall be recommended by the Solicitor of the Treasury.

SEC. 618. REMISSION OR MITIGATION OF PENALTIES. -- Whenever any person interested in any vessel, vehicle, merchandise, or baggage seized under the provisions of this Act, or who has incurred, or is alleged to have incurred, any fine or penalty thereunder, files with the Secretary of the Treasury if under the customs laws, and with the Secretary of Commerce if under the navigation laws, before the sale of such vessel, vehicle, merchandise, or baggage a petition for the remission or mitigation of such fine, penalty, or forfeiture, the Secretary of the Treasury, or the Secretary of Commerce, if he finds that such fine, penalty, or forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to defraud the revenue or to violate the law, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine, penalty, or forfeiture, may remit or mitigate the same upon such terms and conditions as he deems reasonable and just, or order discontinuance of any prosecution relating thereto. In order to

enable him to ascertain the facts, the Secretary of the Treasury may issue a commission to any special agent, collector, member of the Board of United States General Appraisers, or United States Commissioner, to take testimony upon such petition: Provided, That nothing in this section shall be construed to deprive any person of an award of compensation made before the filing of such petition.

Note that Section 616 is headed "COMPROMISE OF CLAIMS," and Section 617 is headed "SAME." The phrase, "Compromise of claims", as it relates to these two sections is to be defined therein, and in each section the phrase is intended to have the same meaning.

Note further, that in the text of Section 616, the phrase, "Compromise of Claims," is mentioned twice, and in both cases the phrase refers to compromising a claim under the custom laws for "fine, penalty or forfeiture."

Thus, in Section 616, Congress first made it unlawful for any officer of the United States to compromise a claim for any fine, penalty or forfeiture; and then, in the proviso, Congress authorized the Secretary of Treasury to compromise a fine, penalty or forfeiture in the manner provided by law. Clearly, Congress intended that the compromise of claims would involve only fines, penalties or forfeitures.

Note further the exact language of the Proviso:

"Provided: That the Secretary of the Treasury shall have power to remit or mitigate any such fine, penalty or forfeiture, or to compromise the same in the manner provided by law."

Where then are we to look to determine the manner in which the Secretary will have the power to remit or mitigate and compromise a fine, penalty or forfeiture? Where indeed, but in the very next two provisions, Section 617, entitled "SAME" (relating, as previously stated, to "COMPROMISE OF CLAIMS") and Section 618 entitled "REMISSION OR MITIGATION OF PENALTIES."

Seen from this point of view, these three sections, appearing as part of the Enforcement Provisions of the 1922 Tariff Act, clearly relate only to fine, penalties and forfeitures, and thus the contention that the Secretary has power to compromise claims for antidumping duties is patently erroneous. It now only remains to follow the legislative history

of these three sections down to modern times.

In 1930, these three sections were recodified as part of Chapter 497 of the Tariff Act of 1930 as follows:

SEC. 616. COMPROMISE OF GOVERNMENT CLAIMS  
PROHIBITED -- EXCEPTION.

It shall not be lawful for any officer of the United States to compromise or abate any claim of the United States arising under the customs laws for any fine, penalty, or forfeiture, and any such officer who compromises or abates any such claim or attempts to make such compromise or abatement, or in any manner relieves or attempts to relieve any person, vessel, vehicle, merchandise, or baggage from any such fine, penalty, or forfeiture shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not more than \$5,000 or by imprisonment for a term of not exceeding two years: provided, That the Secretary of the Treasury shall have power to remit or mitigate any such fine, penalty, or forfeiture, or to compromise the same in the manner provided by law.

SEC. 617. COMPROMISE OF GOVERNMENT CLAIMS BY  
SECRETARY OF TREASURY.

Upon a report by a collector, district attorney, or any special attorney or customs agent, having charge of any claim arising under the customs laws, showing the facts upon which such claim is based, the probabilities of a recovery and the terms upon which the same may be compromised, the Secretary of the Treasury is hereby authorized to compromise such claim, if such action shall be recommended by the Solicitor of the Treasury.

SEC. 618 REMISSION OR MITIGATION OF PENALTIES.

Whenever any person interested in any vessel, vehicle, merchandise, or baggage seized under the provisions of this Act, or who has incurred, or is alleged to have incurred, any fine or penalty

thereunder, files with the Secretary of the Treasury if under the customs laws, and with the Secretary of Commerce if under the navigation laws, before the sale of such vessel, vehicle, merchandise, or baggage a petition for the remission or mitigation of such fine, penalty, or forfeiture, the Secretary of the Treasury, or the Secretary of Commerce, if he finds that such fine, penalty, or forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to defraud the revenue or to violate the law, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine, penalty, or forfeiture, may remit or mitigate the same upon such terms and conditions as he deems reasonable and just, or order discontinuance of any prosecution relating thereto. In order to enable him to ascertain the facts, the Secretary of the Treasury may issue a commission to any customs agent, collector, judge of the United States Customs Court, or United States commissioner, to take testimony upon such petition: Provided, That nothing in this section shall be construed to deprive any person of an award of compensation made before the filing of such petition.

Note that the same pattern persists. Section 616 is entitled "COMPROMISE OF GOVERNMENT CLAIMS PROHIBITED -- EXCEPTION," and the power of the Secretary of Treasury remains the exception. Note further that Section 617 logically follows as an explanation of the exception and in this regard is entitled "COMPROMISE OF GOVERNMENT CLAIMS BY SECRETARY OF TREASURY." Section 618 has been rewritten, but it remains in logical tandem with Section 617 as an explanation of the Proviso in Section 616. Clearly, at this juncture, there is no evidence that Congress contemplated the Secretary compromising anything but fines, penalties and forfeitures.

Before proceeding further with an analysis of the history of these provisions it might be worthwhile to examine Contonificio Bustese, S.A. v. Morgenthau, Secretary of the Treasury, et al., 121 F.2d 884, (D.C. Cir. 1941). Here the appellant sought an order directing the Secretary of the Treasury to reconsider a petition for remission or mitigation of a customs exaction on the grounds that it was a penalty and thus

capable of remission and mitigation under 19 U.S.C. 1618. The Secretary had held that the exaction in question was in reality a duty, not a penalty, and therefore he had no authority under the statute to remit or mitigate. The Court went on to hold that such an exaction was in fact a penalty; however, as it relates to the instant case, the interesting fact is that there was no allegation made by either the appellant or the government that if the exaction was a duty it could then be compromised under 19 U.S.C. 1617. Surely, if it was generally perceived by the government or members of the bar that Section 1617 allowed the Secretary to compromise customs duties, this contention, in one form or the other, would have inevitably found its way into this case.

In 1948, Section 1616 was repealed; however, its provisions based upon Section 1616 of the 1940 Codification appeared in 18 U.S.C. 1915 as follows:

#### COMPROMISE OF CUSTOMS LIABILITIES

Whoever, being an officer of the United States, without lawful authority compromises or abates or attempts to compromise or abate any claim of the United States arising under the customs laws for any fine, penalty or forfeiture, or in any manner relieves or attempts to relieve any person, vessel, vehicle, merchandise or baggage therefrom, shall be fined not more than \$5,000 or imprisoned not more than two years, or both. June 25, 1948, c. 645, 62 Stat. 793.

Essentially, nothing has changed except, as a matter of indexing, this provision now appears in the penal code. The statute still applies only to fine, penalties and forfeitures and the old proviso portion of its precursor is represented by the use of the words "without lawful authority."

Once again, that "lawful authority" can be found in 19 U.S.C. §1617 which for all practical purposes remains strikingly similar to the 1922 and 1932 acts:

#### 1617. COMPROMISE OF GOVERNMENT CLAIMS BY SECRETARY OF TREASURY

Upon a report by a collector, United States attorney, or any special attorney or customs

agent, having charge of any claim arising under the customs laws, showing the facts upon which such claim is based, the probabilities of a recovery and the terms upon which the same may be compromised, the Secretary of the Treasury is authorized to compromise such claim, if such action shall be recommended by the General Counsel for the Department of the Treasury. June 17, 1930, c. 497, Title IV, §617, 46 Stat. 757; May 10, 1934, c. 277, §512(b), 48 Stat. 759; June 25, 1948, c. 646, §1, 62 Stat. 869.

The final amendment to 19 U.S.C. §1617 occurred in 1970 substituting a reference to a customs officer for a reference to a collector. Section 1618 still remains in force though amended.

On the basis of this historical analysis, there is little or no merit to the contention that the Secretary may compromise dumping duties under 19 U.S.C. 1617.

The special dumping duty has been described as an "equalizing duty" the imposition of which is not regarded as a "penalty", but rather a "duty sufficient to equalize competitive conditions." Sturm, A Manual of Customs Law, New York, American Importers Association, 1976, at p. 134. Special dumping duties fall into the same category as normal duties. C.J. Tower & Sons v. United States, 21 CCPA 417, 427 (1934). There is a separate category of customs exactions which includes fines, penalties and forfeitures. These exactions are imposed for violations of the laws governing the importation of merchandise. "Penalties are severe, but have been considered necessary in order to enforce the customs laws and prevent smuggling and fraud on the Government." Sturm, A Manual of Customs Law Supplement - 1976, American Importers Association, New York 1976 at p. 127.

Clearly, Congress never intended for the Secretary to possess the power to compromise customs duties; for him to have such power would render the tariff law of this country virtually worthless. If the authority to compromise duties exists, it is the Secretary and not Congress who becomes the final authority

as to what rate of duty should be exacted on each imported item. It would be an exercise of futility for Congress, after the arduous task of compiling facts and hearing testimony, to set custom duties only to allow the Secretary, for reasons which Congress might or might not find pertinent, to alter such rates as he sees fit.

The imposition of special dumping duties is mandatory following the publication of a formal dumping finding under the Antidumping Act of 1921, 19 U.S.C. 161 or following the publication of a antidumping duty order under the recently enacted amendments to §736 of Tariff Act of 1930, 93 Stat. 172 and the formulae for calculating those duties are quite specific. Since antidumping duties are considered to fall in the same category as ordinary duties, there appears to be little basis for bringing the assessment of such duties within the reach of 19 U.S.C. 1617.

Very truly yours,

HANNA & CULLEN

By   
Paul D. Cullen

STATEMENT  
of  
GTE PRODUCTS CORPORATION  
Submitted to the  
HOUSE GOVERNMENT OPERATIONS COMMITTEE  
on  
TRADE REORGANIZATION  
November 6, 1979

GTE Products Corporation ("GTE") is a wholly-owned subsidiary of General Telephone & Electronics Corporation. GTE manufactures and markets a wide variety of products and services in the United States and in foreign countries to the private (consumer and commercial) and governmental sectors. GTE imports and exports articles in both finished and unfinished states; it competes in markets that are sensitive to import competition and in markets that present significant export opportunities. GTE employs nearly 100,000 persons in its domestic and international operations; its sales during 1978 were \$4.1 billion.

GTE supports the concept of coordinating, in an executive department of the Government, the United States trade policy functions presently spread among fifty or more Government entities. We believe that the Department of Commerce, with appropriate restructuring and streamlining,



could serve as that coordinating Department. We also believe that the successor entity to the Office of Special Trade Representative should act as a separate watchdog agency to help assure that the United States receives the benefits it bargained for in the Tokyo Round of the Multilateral Trade Negotiations.

At the same time, we urge that the responsibility for administering and enforcing the antidumping and countervailing duty laws should rest entirely with an independent regulatory agency, such as the International Trade Commission ("ITC"), as free as possible from pressure to use U.S. trade law as a foreign policy tool.\*/ We direct the thrust of our comments to this latter point as well as to other matters concerning the effect of trade reorganization on unfair trade practices.

The responsibility for finding "less than fair value sales" in antidumping cases and for determining the existence of a subsidy in countervailing duty cases should not lie in a policy-making Government agency. Because the Trade Agreements Act of 1979 liberalizes the antidumping and countervailing duty laws, arguably making it more difficult to protect domestic trade against unlawful dumping

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\*/ Such an independent regulatory agency could be housed in the trade policy-making department in the same way that the Federal Energy Regulatory Commission is a part of the Department of Energy, but it should not be influenced by the host department.

and subsidies, it is important that an independent body be available to enforce these laws in strict conformance with their provisions.<sup>\*</sup>/ In addition, a policy-making executive department would be more prone to twist the intent and meaning of the antidumping and countervailing duty laws in the name of trade policy than an independent regulatory agency. A case in point is the way in which the Department of Treasury, an executive department, has for over ten years almost entirely thwarted the result of the dumping finding against certain television receivers from Japan.<sup>\*\*</sup>/

The behavior of the Department of Treasury in this matter and in its administration of the antidumping and countervailing duty laws has been the subject of serious congressional criticism.<sup>\*\*\*</sup>/

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<sup>\*</sup>/ This is not to say that it would be inappropriate, for example, for a policymaking agency to settle an antidumping case by accepting an undertaking by the defendant to eliminate completely the injurious effect of the dumping. However, we believe that the authority of such an agency should be limited to cases where an independent body has first determined that the market place result on which an undertaking is predicated will be reached.

<sup>\*\*</sup>/ See the allegations set forth in Committee to Preserve American Color Television (a.k.a. COMPACT), et al. v. W. Michael Blumenthal, et al., Case No. 79-1207 (D.C.D.C., decided June 26, 1979); appeal pending, No. 79-1948, D.C.Cir.

<sup>\*\*\*</sup>/ See S. Rept. No. 96-249, 96th Cong., 1st Sess. (1979) pp. 76-77 and H. Rept. No. 96-317, 96th Cong., 1st Sess. (1979), p. 69.

We suggest that the most practical way to avoid politicizing enforcement of the antidumping and countervailing duty laws would be to end the present approach of bifurcating the findings of subsidy or dumping by the Department of Treasury on the one hand, and the findings of injury by the International Trade Commission on the other hand.<sup>\*/</sup> The ITC, an independent regulatory agency should be responsible for finding both "less than fair value sales" and resulting injury in antidumping cases, and both subsidy and resulting injury in countervailing duty cases. If this suggestion were implemented, we see no reason why the U.S. Customs Service could not provide the ITC with the same information with respect to antidumping and countervailing duty matters which it presently provides to the Department of Treasury in such matters.

With respect to the unfair import practice provision of the Tariff Act of 1930 (section 337), we believe that the same independent regulatory agency assigned responsibility for antidumping and countervailing duty matters should administer section 337. Again, we suggest that the ITC, which has aggressively administered section 303 of the Tariff Act of 1930 and the Antidumping Act of 1921, retain its section 337 jurisdiction.

In summary, while GTE endorses the formation of a central policymaking trade department, we strongly urge that an

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<sup>\*/</sup> See Recommendation No. 73-4 of the Administrative Conference of the United States, 39 Fed. Reg. 4846, 4847.

independent regulatory agency administer enforcement of antidumping, countervailing duty and unfair import practice laws as an important counterbalance to the institutionalization of trade policy matters.

## NATIONAL ASSOCIATION OF MANUFACTURERS



International Economic  
Affairs Department

The Honorable Jack Brooks  
Chairman, Committee on Government Operations  
U.S. House of Representatives  
Washington, D. C. 20515

RECEIVED

OCT 28 1979

Legislation and National  
Security Subcommittee

Dear Mr. Chairman:

I regret it was not possible to appear before the Committee personally to express the views of the NAM, and my own personal views and those of a very large part of the American business community, with regard to the Administration's proposed reorganization of the Executive Branch of the Government for the conduct and execution of foreign economic policy. Accordingly, I would be pleased if the views of NAM, of which I am Chairman of the International Economic Affairs Committee, would be made part of the record of the hearings on this important subject.

Our views are stated in the attached statement, which has been developed over the period of the past year and a half as a result of close cooperation with the American business community. As you know, we do not favor the Administration's plan to establish two separate units in the Executive Branch to carry out U.S. foreign economic policy; rather, we favor the creation of a unified new Cabinet Department of International Trade and Investment. The reasons for our position are seen further in the attached statement. Many businessmen are of the opinion that the Administration's proposal is a step in the direction of creation of a separate Department of Trade and Investment, and they support the Administration's reorganization proposal for this reason. I hope this view is correct, but only time will tell. As of this time, NAM is of the opinion that the creation of a new Department of International Trade and Investment is a more appropriate course to follow. Hopefully, the Administration's proposed reorganization, if enacted, will produce some favorable results. I hope your Committee will monitor the progress. If the results are not commensurate with the expectations, I trust that your Committee will give consideration to alternate organizational proposals, including the creation of a new Cabinet department.

I am enclosing a copy of my letter of August 17, 1979, addressed to Senator Ribicoff. I think the material provided in that letter is of interest to your Committee, and I request that the letter also be made part of the record.

Sincerely,

*William L. Nearly*  
William L. Nearly

Chairman  
International Economic Affairs Committee and  
Chairman, Ingersoll-Rand Company



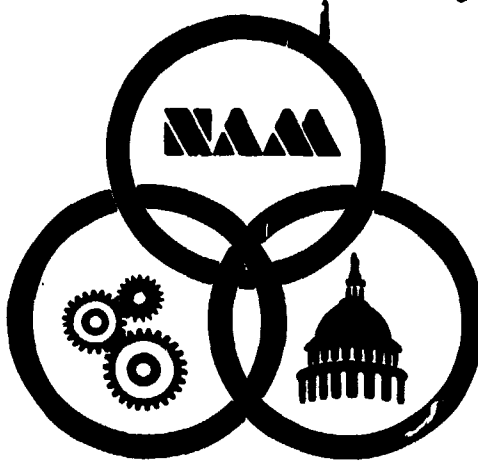
# National Association of Manufacturers

STATEMENT OF  
 WILLIAM L. WEARLY  
 CHAIRMAN AND CHIEF EXECUTIVE OFFICER  
 INGERSOLL-RAND COMPANY  
 and CHAIRMAN,  
 NAM INTERNATIONAL ECONOMIC AFFAIRS COMMITTEE  
 on behalf of the  
 NATIONAL ASSOCIATION OF MANUFACTURERS  
 concerning  
 INTERNATIONAL TRADE AND INVESTMENT REORGANIZATION  
 October 25, 1979

**RECEIVED**

**OCT 25 1979**

Legislation and National  
 Security Subcommittee



1776 F Street, N.W. • Washington, D.C. 20006 • (202) 331-3700

## Executive Summary of NAM Testimony on Trade Reorganization

1. Growing U.S. interdependence with the world economy requires that the formulation and implementation of U.S. foreign economic policy be accorded a higher priority in the governmental system. Record annual trade deficits and the dollar's weakness abroad perhaps are the most dramatic examples of the competitive economic challenge facing this country. The currently unfocused U.S. government approach to international economic policy-making and execution is inadequate to these tasks.

2. Basic advantages to be derived from reorganized governmental authority over foreign economic policy lie in: (1) more consistent policy with greater attention to international economic considerations, (2) enhanced international negotiating leverage, (3) increased follow-up on international agreement obligations and opportunities, (4) better analytic economic research, (5) improved business promotion services, and (6) elimination of unnecessary duplication between government departments.

3. Consolidation of currently scattered international trade and investment functions of the government into a new department, coupled with an inter-agency coordinating mechanism, offers the most substantial benefits for recognizing the increased importance of international economics in both governmental policy formulation and implementation.

4. A number of different proposals involving consolidation of the government's trade and investment functions have been introduced by the White House, Senate and the House. However, S. 377 and the companion bill, H.R. 3859, address many of the problems which currently plague the conduct of U.S. economic policy-making and execution. This approach is an innovative and positive response to reorganization needs which contains the necessary basic consolidation proposals to establish an effective international trade and investment department. Several constructive modifications could be made in the bill, including provisions for a specific inter-agency coordination mechanism, the further incorporation of ITC functions, and the clarification of authority over trade adjustment assistance policy and commercial aspects of foreign aid programs.

5. The Administration's recent reorganization proposal falls short of necessary consolidation objectives. Trade authorities and functions still would be split unnecessarily. There would not be a strong trade policy leader, with unified cabinet department resources, whose primary mission is the improvement of U.S. competitiveness in world markets.

6. NAM supports the creation of a separate Cabinet Department of International Trade and Investment, and urges positive and timely Congressional action on this proposal.

NAM Statement  
by  
William L. Nearly  
Chairman, NAM International Economic Affairs Committee  
and  
Chairman and Chief Executive Officer of  
Ingersoll-Rand Company  
concerning  
International Trade and Investment Reorganization  
October 25, 1979

I am submitting a statement on behalf of the National Association of Manufacturers. NAM is a voluntary, non-profit association of some 13,000 business firms, large and small, located in every state of the nation. The Association's member companies account for about 75 percent of American industrial output and provide about the same percentage of the nation's industrial jobs.

My own firm is primarily a producer of heavy capital equipment, along with some consumer products. We have manufacturing plants in 24 states and serve or do business in 119 foreign countries. Our sales amount to over \$2.3 billion, of which about \$450 million consists of machinery and equipment exported from this country. More than 6,400 of our employees in this country, or nearly 20 percent of our domestic work force, are engaged in export-related jobs, plus nearly an equal number for our suppliers.

NEW INTERNATIONAL CHALLENGE

The stake of my firm in world commerce, as well as that of many NAM member companies, has grown enormously over the last decades. The internationalization of the world economy truly has reached the United States. Administration figures show that one of every nine manufacturing jobs in this country depends on export sales; one out of every three dollars of corporate profits comes from international activities, either exports or foreign investment; and imports supply over one-fourth of U.S. consumption in twelve of fifteen key industrial raw materials. The share of



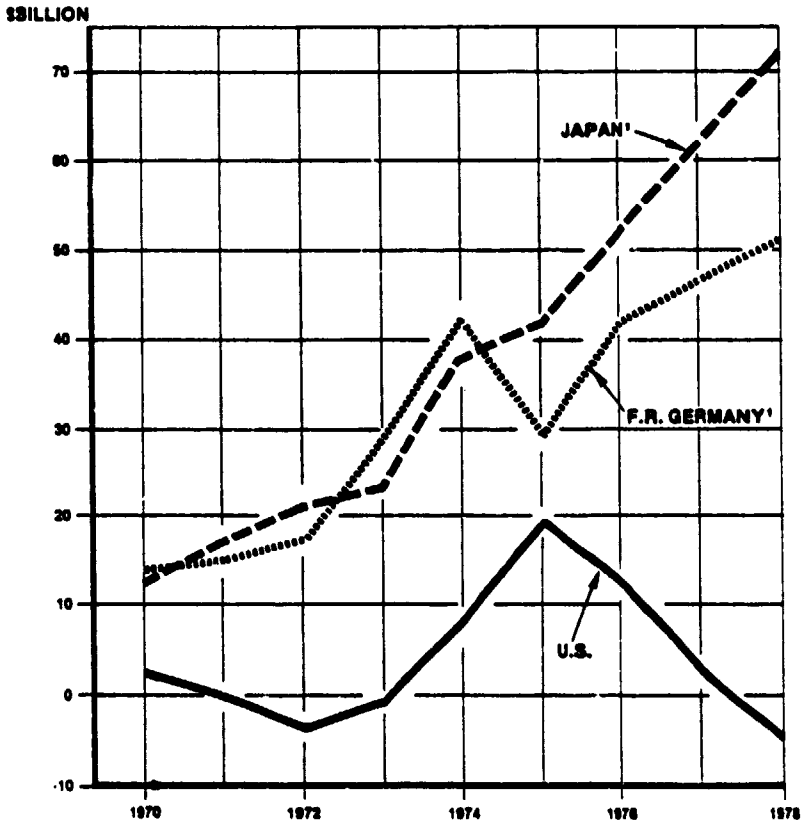
trade in this nation's GNP has doubled over the last decade or so and, if investment is included, the level of U.S. involvement in the world economy is at least as great as that of Japan or the EEC, taken as a group.

This internationalization of the world economy has brought with it numerous opportunities and challenges requiring new approaches in analytical, structural and organizational terms. Many U.S. companies have reorganized themselves more than once in the past ten years to improve the functions of their international operations. The U.S. Government, on the other hand, which naturally plays a tremendous role as policy-maker, negotiator and energizer in dealing with the consequences of economic interdependence, has failed to organize itself effectively to meet these new tasks. There is a growing perception in business, financial circles, academia, the Congress and elsewhere that there has to be a better way to develop and implement the nation's international economic policy.

The dramatic reversal of the nation's trade balance and the dollar's problems in world markets have spurred consideration of alternative organizational proposals. While government intervention in currency markets since late last year has bolstered the dollar, these are not long-term corrective actions and do not address the fundamental problems which underlie the dollar's weakness. Last year the United States sustained another record trade deficit of over \$28 billion -- a figure that would have been unimaginable just a few years ago. This deficit has serious implications for the nation's economy in terms of higher unemployment, dollar problems abroad and growing inflation at home. While most press accounts usually stress the admittedly large role of increasingly costly oil imports in this deficit, it is often overlooked that the decline in our manufactured goods trade balance was more significant last year than oil in accounting for the larger trade deficit. Indeed, our trade position in manufactured goods, which represent two-thirds of the dollar value of U.S. exports, generally has been

declining rapidly in both absolute terms and relative to major U.S. trading competitors. In just three years, from 1975 to 1978, the U.S. trade account in manufactured goods dropped from roughly a \$20 billion surplus to a deficit of over \$5.8 billion, while the surplus of Germany and Japan has jumped to over \$51 billion and \$72 billion, respectively.

**BALANCE OF TRADE IN MANUFACTURES,  
U.S., F.R. GERMANY, AND JAPAN,  
1970 - 1978**

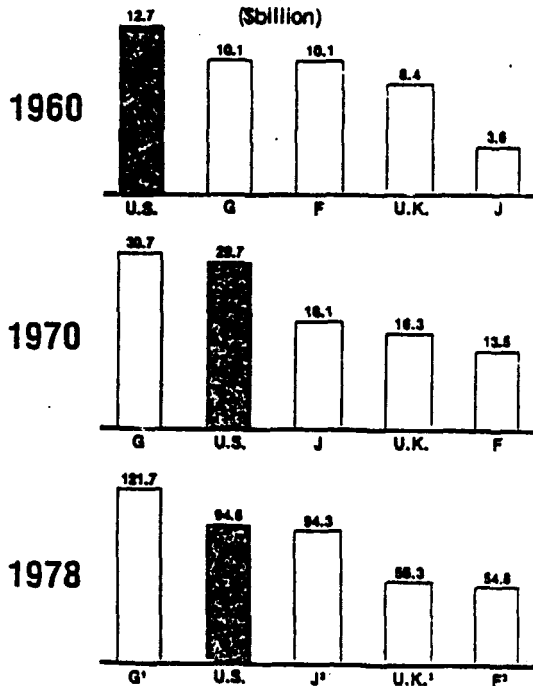


1. 1978 figure based on second quarter, annualized.

Source: Department of Commerce, International Economic Indicators

The United States has lost its once unchallenged position in world commerce. In 1970 Germany moved ahead of the U.S. as the world's leading exporter of manufactured goods and since has widened its lead. The U.S. share of total world exports has continued to drop from an 18 percent share in 1970 to only 13.7 percent in 1977 -- and bear in mind that every one-tenth of one percentage point represents over \$1 billion in trade, or 40,000 jobs, \$2 billion in U.S. GNP and \$400 million in Federal tax revenue.

EXPORTS OF MANUFACTURED GOODS  
U.S., F.R. GERMANY, FRANCE, U.K., AND JAPAN  
1960, 1970, AND 1978



1. Second quarter, 1978, annual rate

2. Seven months, 1978, and extrapolated from December figures for exports of all goods.

3. First quarter, 1978, annual rate

Source: Department of Commerce, International Economic Indicators; U.S. - Japan Trade Council.

Some will argue that exchange rate developments - further devaluation of the dollar or revaluation of the yen and the mark - will rectify the U.S. trade problem. Others may contend that the current problem is mainly due to the business cycle; i.e., that because the U.S. has grown more rapidly than Japan or Western Europe in the last few years, it is importing more and exporting less than other countries in response to this conjunctural business cycle situation. I believe, however, that reliance on exchange rate developments or business cycle changes to correct the American trade position and improve the U.S. balance of payments position more generally, represents a theoretical view held by some economists, but shared by very few businessmen.

Much of the responsibility for the poor performance of U.S. exports must fall on government, both the U.S. and foreign governments, for their increasingly counter-productive role in international business transactions. The U.S. government, for its part, recently has been succeeding more in discouraging rather than promoting increased exports. The absence of effective export stimulants, the continued growth of bureaucratic red tape and the often counterproductive use of presumed export leverage to pursue non-economic policy objectives, have all served to place a series of self-imposed restraints on U.S. exports. Additionally, the U.S. Government has not been able to act effectively against foreign countries engaging in unfair trade practices which have brought harm to important segments of U.S. industry.

In short, the U.S. Government has not effectively pursued this nation's increased international economic interests, either in supporting U.S. foreign business activities or resisting the unfair practices engaged in by other countries on behalf of their own national industries. We believe that the Government simply has not kept pace with the country's changed economic realities. U.S. interests in the international

economy can no longer be the poor step-child of other national concerns. This policy area deserves high-level attention on a sustained, integrated basis and requires a top policy spokesman and advocate at the cabinet level of government. Today there is no single government department charged with looking after this nation's international trade and investment position. In fact, the currently scattered system of diverse, overlapping or even competing functions and authorities almost guarantees that there will be no adequate guidance in this vital national interest area.

#### INTERNATIONAL TRADE REORGANIZATION PROPOSALS

A number of proposals have been introduced to improve Executive Branch organization for the conduct of trade policy. Senators Abraham Ribicoff and William Roth have introduced a bill (S. 377) to consolidate the currently fragmented federal policy-making and execution apparatus into one Department of International Trade and Investment (DITI). The bill does not expand the size of the Cabinet, since it subsumes the Special Representative for Trade Negotiations post, and does not authorize any new bureaucracy nor government regulatory activity. It does, however, provide a consolidated policy Department with a strong mandate and the tools to promote and protect U.S. international trade and investment interests. Senators Robert Byrd, Adlai Stevenson and others have introduced bills which offer somewhat different consolidation patterns, but are directed at similar objectives.

In the House, Congressmen James Jones and William Frenzel of the Committee on Ways and Means have introduced their bill (H.R. 4567) which transfers the main trade policy functions of the government to the Department of Commerce. Congressman Stephen Neal, Chairman of the International Investment and Monetary Policy Subcommittee of the House Banking Committee, has introduced a companion piece to Roth-Ribicoff, H.R. 3859. Congressman Gillis Long has also introduced a bill (H.R. 4995) which places the main responsibility for trade policy-making and execution in the office of the Special Trade Representative. In late September the Administration formally submitted its Reorganization Plan Number 3 to the Congress.

After nearly a full year of study during 1978, NAM's International Economic Affairs Committee voted last November to support the consolidation of international trade and investment functions into a single cabinet Department, and specifically endorsed a modified version of S. 377. I would like to describe our reasons for that decision, since the rationale underlying the decision constitutes the criteria against which we measure all current reorganization proposals.

#### REORGANIZATION OBJECTIVES

A reorganization proposal should not be viewed as a panacea for basic economic problems. It does not replace the need for an expansion of productive capital investment or other important economic requirements that relate to domestic as well as international economic policy. However, a reorganization should help improve the U.S. government's ability to respond effectively to at least six identified major problem areas of inconsistent policy, negotiating leverage, international agreement enforcement and follow-up, analytic economic research, business promotion services and eliminating unnecessary duplication. NAM supports a consolidated Department of International Trade and Investment (DITI) as the best reorganization alternative to meet these objectives.

#### Inconsistent Policy

A DITI Cabinet Officer would be in a strong organizational position to become a needed advocate for broad, international economic views to counter-balance State's diplomatic focus, Treasury's financial outlook and various agencies' self-interest perspectives. This top-level advocacy would be complemented by DITI's staff capability to assume leadership positions on specific inter-agency policy groups. By building such institutionalized international economic advocacy views into the system, new policy initiatives harmful to U.S. international economic interests more likely would be challenged at an early stage, while efforts could be made to alter or clarify presently inconsistent policies. Absent a cabinet department charged with international economic policy responsibility, the current situation

is likely to continue with authority scattered in diverse agencies, each pursuing interests more central to their mission than U.S. economic competitiveness in world markets.

For example, export promotion has for many years been promulgated as a national policy goal. Periodically there are special efforts to fashion a new governmental effort to encourage U.S. business, particularly smaller firms, to enter the overseas market. However, the present export programs like trade fairs, embassy commercial officers or the DISC are overwhelmed by the continued proliferation of governmental restraints on exports. Long-standing export controls in security sensitive areas and antitrust policy inhibitions are now being joined by human rights considerations, environmental impact studies and other self-imposed export disincentives. The bureaucratic requirements of these programs not only conflict with a national export promotion effort, but they are particularly burdensome and restrictive on smaller firms lacking large administrative staffs and unfamiliar with the rigors of multinational, cross-cultural marketing. A strong Cabinet-level advocate of international economic goals is needed to challenge the desirability and specific application of proliferating non-economic controls on U.S. export promotion efforts.

The Domestic International Sales Corporation (DISC) is another good example of how inconsistency can help undermine a beneficial program. The DISC was established to help promote U.S. exports and partially offset foreign export subsidy measures. The debate ensuing from calls for its termination point to the need for a better coordinated government policy benefiting from a broader overview perspective. The Treasury Department focuses on DISC tax revenue questions, the Commerce Department on export promotion and the STR on negotiating a trade-off in reducing foreign export subsidies. Governmental policy on DISC seemingly shifts with the ebb and flow of these several departments' interests and fortunes, creating uncertainty as to the future of the program and government's commitment to its objectives. Under these circumstances, companies are under-

standably reluctant to undertake long-range export expansion efforts which may be undercut by government policy shifts in mid-stream. Other similar examples of negative impact from such inconsistent policies are evident in the recent controversy over calls for foreign environmental impact statements on exports; extraterritorial enforcements of U.S. antitrust, corrupt payments, and other areas.

#### NEGOTIATING LEVERAGE

Most other industrialized nations have a centralized, consolidated trade administration organization. The organizationally scattered trade authority in this country means that U.S. negotiating interests can be compromised by uncoordinated actions and positions among the various government agencies involved in international economic activities. Foreign negotiators are able to exploit position differences among U.S. agencies while American officials cannot draw upon all the potential negotiating leverage inherent in this country's central role in international commerce. This point was referred to in hearings before this Committee last year in the presentation by former Deputy Special Trade Representative Harold Malmgren.

A DITI would integrate many of the government's international economic activities into one department, while also providing the incentive and capability to staff a coordinating mechanism to tie other agency functions into the information needs and policy positions of a central negotiating team. For example, former Ambassador Strauss might have benefited in his effort to open up the Japanese economy to U.S. imports if he had had some means of taking into account and influencing the course of civil air negotiations with Japan concerning landing rights in the Dallas-Ft. Worth area. U.S. negotiating strategy and tactics can benefit from the coordinated leverage which may be available through knowledge of discussions in such areas as aviation, fisheries, communications, agriculture and others. The DITI role in integrating governmental international economic functions with approp-



riate inter-agency coordination leadership would enable it to develop over time the type of "institutional memory" currently lacking in the U.S. government which would underpin U.S. negotiating leverage in future international economic discussions.

Another very important application of improved U.S. negotiating leverage concerns the proliferation of foreign governmental involvement in trade flows, particularly regarding subsidization of export promotion drives. A consistent and coordinated U.S. government response is needed to unfair foreign trade practices. The current U.S. system lodges countervailing duty and anti-dumping actions in the Treasury Department, certain investigation and recommendation functions with the International Trade Commission (ITC), negotiating authority for orderly marketing agreements or other arrangements with the Special Trade Representative's (STR) Office, with various other functions falling to the State Department, Agriculture Department or other agencies on specific subjects such as sugar imports quotas, commodity negotiations, etc. The consolidation of most of these functions under the centralized direction of a new DITI structure, while drawing on specific agency expertise where necessary, would give the U.S. a better coordinated and effective mechanism for dealing forcefully with unfair foreign trade practices.

#### INTERNATIONAL AGREEMENT ENFORCEMENT AND FOLLOW-UP

Closely related to the need for better negotiating leverage is the requirement of effective follow-up mechanisms to implement international trade and investment agreements. The most important example concerns the non-tariff measure agreements just concluded in the Geneva multilateral trade negotiations. Regardless of the substantive merits of these agreements, codes in areas such as subsidies, government procurement and standards, will be meaningless for U.S. interests unless an effective follow-up enforcement mechanism is devised. While full use will have to be made of the GATT Secretariat and other relevant international bodies, the task of vigorously defending U.S. interests in the implementation of the codes must fall primarily

on the U.S. government. The job really will be two-fold: to take full advantage of new U.S. trade opportunities resulting from tariff or non-tariff measure concessions, and to assure proper enforcement of the international rules against unfair foreign trade practices.

First, there should be a systematic attempt to exploit fully the trade or investment opportunities for the U.S. which are achieved in an international trade or investment agreement. Although there are differing opinions as to whether the U.S. successfully negotiated for everything it might have from the "Kennedy Round" of trade talks in the 1960s, there is little dispute that there was incomplete follow-up to exploit the potential trade opportunities which were gained. A similar challenge will arise in translating potential gains from the current round of multilateral trade talks in Geneva into real export gains for U.S. business. The realization of such trade growth requires a coordinated follow-up program to communicate the potential opportunities; encourage the development of new export efforts with adequate commercial information, export credit financing, license approvals, etc; and assure that foreign government actions do not close off the newly negotiated opportunities. This type of practical implementation follow-up would be handled best by an integrated DITI-like structure which has the added advantage of first-hand knowledge of the agreements, since the DITI would handle their negotiation.

Closely related to the above point is the second track of follow-up actions to ensure vigorous enforcement of agreed international and national rules and regulations against unfair foreign trade or investment practices. The U.S. network of Treaties of Friendship, Commerce and Navigation with other countries has been a useful, but seldom fully enforced standard governing bilateral economic relations. Similarly, the U.S. has not effectively utilized GATT procedures nor other accords, like the OECD agreement on the liberalization of capital movements, to protect the nation's interests in international commerce. This problem of effective enforce-

ment follow-up will be even more important with regard to the various codes negotiated in the multilateral trade negotiations. There is widespread recognition that non-tariff measures, particularly subsidies, customs regulations, licensing practices, government procurement and product standards, have surpassed tariff rates in terms of their impact on world trade. Negotiated codes to constrain governmental intervention in these areas will seek to prevent or reduce such trade distorting tactics. However, any satisfactory international agreements on these topics will require a sophisticated U.S. implementation capability to ensure that the agreed rules are enforced. The same conclusion holds regarding utilization of the less detailed but still important 1976 OECD agreements on national treatment of foreign enterprises and international investment incentives and disincentives. An integrated U.S. trade and investment department offers the greatest potential for providing the continuing enforcement and implementation attention needed to achieve U.S. economic objectives.

In the past the U.S. too often has let potential new trade opportunities slip away and been unable or reluctant to seek redress against unfair foreign actions. A unified cabinet department such as DITI, which has responsibility for negotiating the agreements and which also incorporates the government's trade promotion mechanisms, would be ideally situated to follow-up effectively on agreements coming out of multilateral trade talks or in relation to other areas, as for example the national treatment or capital movement agreements in the OECD.

#### Analytic Economic Research

The current scattering of agencies with some involvement in international economic functions has dispersed the government's data-collecting and analytic research capabilities. Despite the government's collection of massive amounts of raw information, there is little long-term or in-depth analysis done by the federal government on fundamental international economic issues. The integration

of information-gathering and analysis staffs in a DITI would enhance the capability to identify and encourage future areas of national economic strength as well as provide the earlier warnings necessary to help avoid domestic dislocations arising from international economic forces.

During the periods of a large U.S. surplus, American industrial competitiveness was taken for granted and little attention was paid to component elements which provided the surplus position. Now that the trade account has dramatically reversed into the deficit category, there is some concern about injured domestic industries, but still little evaluation of economic strength areas. Many foreign governments target export growth industries and encourage their expansion. The U.S. system does not and should not allow for the same measure of governmental planning as is carried out abroad, but U.S. policy-makers should be more aware of the elements of the country's economic strength when developing negotiating strategy and follow-up programs to maximize U.S. export opportunities in future years. A centralized analytic staff also could provide more accurate assessments regarding the effectiveness of various government programs, such as the DISC. One of the problems regarding the DISC is the absence of an authoritative professional study which can draw on consolidated government information to evaluate properly the program's effectiveness in terms of its full international economic implications.

There has been a recent increase of concern regarding the adverse impact on a number of domestic industries due to international economic factors. Import competition, particularly resulting from subsidized or otherwise unfair foreign practices, has highlighted this development. However, other domestic dislocations can result from longer-term shifts in the relative competitiveness of economic factors in various countries. There has been much discussion about the desirability of some form of "early warning" system for such dislocations, especially to key appropriate adjustment actions. However, early identification of economic trends or foreign government actions likely to affect adversely U.S. domestic

interests are unlikely without a professional economic analysis drawing upon consolidated government data. The growing interdependence of the U.S. with the world economy makes it imperative that the U.S. Government develop an analytic research capability which can underpin informed and timely decision-making on foreign economic policy issues.

One further illustration of the disadvantages of the current information gathering and analysis system arises from this country's experience in conducting multilateral trade negotiations. The governmental specialists who are to study and evaluate the international competitiveness of thousands of particular products are dispersed in at least four major department and agencies: Commerce, STR, ITC and Agriculture. The U.S. approach to negotiations essentially has been to begin from scratch each time, attempting to use the STR Office to forge the necessary coordination links between the various staffs to provide a thorough and coherent analysis. Without denigrating the enormous efforts of the involved individuals, this approach has had obvious problems and does not serve the country well. The relevant analytical staffs should be consolidated into one internationally-oriented department. There they can formulate the best integrated positions and also develop over time the institutional memory from one negotiation to the next which has so benefited our foreign trading partners.

#### Business Promotion Services

Business promotion services such as export expansion efforts and Eximbank financing could be aided by closer coordination within a single departmental framework. Certainly for smaller companies new to the overseas market, an integrated international trade and investment department would be a less confusing

and more reliable ally than the current array of agencies which offers various facets of business facilitation services. A new exporter or smaller firm is especially inhibited from taking advantage of government business facilitation services because they are scattered in a Washington bureaucratic maze nearly indecipherable to someone new to the area.

Consolidation of business facilitation services such as Commerce trade fairs and buyer information, Eximbank, State commercial opportunity programs, OPIC and other related areas should improve coordination among the services. A smaller firm seeking to enter the overseas market could be directed to one central contact point in a consolidated department which could in turn draw upon the full range of integrated inhouse facilities to construct the package of services appropriate to the firm's needs. Additionally, the presence of the analytic research capability in DITI would complement the facilitation services and improve the ability of the government to work with U.S. business to meet increasingly sophisticated foreign competition in world markets. Foreign government-business "combinations" often out-class even the largest American firms in their efforts respecting major foreign projects. Larger firms thus also could work more closely with the U.S. Government in overcoming efforts by foreign firms supported by their governments.

The U.S. Export-Import Bank exists to serve U.S. exporters in financing, insuring or guaranteeing export transactions. However, the fractionalization in oversight and direction of Eximbank policies and programs limits the Bank in terms of customer services as well as reduces its ability to achieve an international reduction of export financing support levels. As a completely separate agency, Eximbank has lacked departmental support to uphold its mission objectives in both interagency and Congressional reviews of its policies. This relative institutional weakness inhibits the ability of the Bank to advance its programs

as an integral part of U.S. foreign economic policy objectives. In recent years this problem led to a cutback in Eximbank support of U.S. export financing needs and the imposition on Eximbank programs of various restrictive non-economic constraints. Additionally, the relatively poor results obtained thus far in U.S. efforts to achieve an internationally-agreed lowering of export financing support levels may be due in part to the absence of an integrated international economic department with adequate incentive and negotiating leverage to accomplish such an agreement. Consolidation of Eximbank within a DITI structure would more closely align Eximbank policies with overall national economic objectives and provide the agency with the departmental support to help accomplish its mission to facilitate U.S. exports through offering American exports financing arrangements competitive with those offered by our major foreign competitors.

#### Unnecessary Duplication

A counterpart benefit to the improved analytic and service capabilities of a DITI would be the elimination of unnecessary and costly duplication of activities which currently exists in many international economic policy areas. Information-gathering functions of Commerce, Treasury, the International Trade Commission and other agencies could be combined in a way that reduced the reporting burden placed on companies while providing a centralized collection point so that policy-makers are aware of all the data which is available to them. Currently, despite some good efforts by the OMB to regulate governmental survey efforts, there is still a great deal of overlap and duplication in information being sought and a general ignorance, both public and private, of the data which are already available. One basic problem is that many different agencies are authorized by various statutes to conduct studies in ambiguous international economic areas. Better control over

these broad investigatory and survey powers could be managed through a consolidation of the government's information-gathering and evaluation staffs into a centralized unit in one department. This integration would also provide a more accurate and readily accessible assessment of what data already is available to policy-makers. Many functional or regional department sections also could be consolidated -- for example, the numerous East-West trade and Middle East bureaus -- to effect a cost-savings while providing for more centralized data evaluation and policy follow-up. Major departments such as State and Treasury would need to retain some broad international economic staff capability since these issues can impact heavily on their principal policy missions. However, specialized staff functions should be transferred to a new department and statutory restrictions placed on the reestablishment of duplicative activities.

#### POSSIBLE COUNTER ARGUMENTS

There are several counter arguments to a DITI-type organizational approach. Two concerns reflect nearly polar opposite expectations--that DITI would be a weak, redundant agency or that DITI would be a powerful government mechanism subject to "capture" by a narrow, single-minded trade philosophy. The first objection anticipates that departments and agencies currently involved in international economic affairs would somehow either retain their supposedly transferred functions or would build them up again after a short period of time. In this view, creation of a DITI would simply add a redundant layer of bureaucracy with duplicating sections being maintained in the other major departments. One way to safeguard against this possibility would be enactment of legislative provisions strictly limiting staff expansion in the departments from which functions were transferred.



The other fear of an excessively strong department rests on two bases. First, support for a powerful government department seemingly runs counter to general business opposition to greater government intervention and control in the economy. A well-organized, coordinated department eventually could develop planning and regulatory functions which might add further controls and restrictions on private enterprise. Partially offsetting this fear is the recognition that some degree of government involvement is unavoidable and, in the international arena, private companies often will need active U.S. Government involvement to gain removal of foreign government restrictions or unfair practices. In fact, the new multilateral trade agreements presume such governmental involvement.

The other factor underlying a fear of a strong department is its possible capture by a single, doctrinaire trade philosophy, either protectionist or totally free trade in outlook. The broad international economic scope of DITI's mandate might enable it to disrupt or override current organizational checks and balances between competing policy interests. However, a DITI in the U.S. would not be comparable to the unitary policy control sometimes exercised abroad, such as by MITI in Japan. Potential counter-weights would still be present in the U.S. system through, for instance, the broader economic policy-making role of Treasury and the integration of domestic with international economic policy concerns in councils such as the Economic Policy Group. What DITI would seek to do is provide a stronger international spokesman and negotiator at the top, while integrating lower-level policy-making and implementation into a more identifiable and therefore presumably more effective and responsible organizational unit. It should be recognized, however, that business should not expect a DITI necessarily to be a spokesman for business interests per se, but rather for general U.S. international economic policy interests which bring the broadest benefit to all economic sectors.

A third major objection to the DITI proposal concerns its feasibility.

The current sentiment in the Executive Branch to a DITI proposal appears to range from hostility to cautious interest. Some key Administration figures have expressed initial opposition to a separate international economic department, while a few have suggested that the idea merits consideration in light of the seriousness of current international economic problems. It should be anticipated, however, that departments which would lose functions and personnel to DITI could constitute a major political obstacle to Administrative support for and final Congressional passage of such a bill.

#### Summary Arguments

The following summary outlines major pro and con arguments which generally are raised with regard to the proposal to create a new consolidated international trade and investment department, particularly as it relates to U.S. business interests.

#### CON

1. Most problems stem from differences in the economic systems used by different countries, and U.S. government organizational changes won't affect such basic differences.
2. Companies have learned to work with the status quo, using diverse contact points. Some may have no particular reason to be dissatisfied with the current structure.

#### PRO

While not a cure-all, a strong Cabinet advocate would strengthen international economic interests in top Administration policy councils and help restrain agencies whose own particular interests may conflict with foreign economic policy goals.

All companies could benefit from less fragmented authority where resolution of U.S. policy problems requires identification of responsibility. Smaller companies especially would be better served by a "one-stop" integrated department than the current confused scattering of programs in many agencies.

CON

3. Support for DITI would be supporting greater government intervention and control in the economy rather than opposing such a trend.
4. A better organized, coordinated government department could become a powerful opponent and seriously inhibit company operations.
5. On many international issues, competing interests need to be brought to a head in the White House for decision and could not be resolved by a new department.
6. Individual personalities rather than government structure make the most practical differences in government action.
7. A new Department would inevitably mean more staff and governmental expenditures, adding new tax burdens without necessarily eliminating international economic functions in some of the currently involved agencies.
8. A new Department is not politically saleable. It cuts across Congressional jurisdictions, would be opposed by agencies losing functions and does not have Administration support.

PRO

Government involvement is a fact which will not change, especially in the international area. It is better to try to improve government policy than to fight against any governmental role.

An effective international trade department is necessary to pursue U.S. interests. For example, implementation of NTB agreements arising from GATT negotiations will require constant follow-up that fragmented agencies are unlikely to provide. In areas such as government procurement, industry needs U.S. government involvement to gain removal of foreign government restrictions.

A small White House council could handle particular policy issues requiring direct Presidential involvement, while maintaining the advocacy and operational integration functions of a new international economic department.

It would be easier to attract good people to lead a better organized, more powerful international economic department.

Costs could be constrained in a new department, especially through statutory limitations on staffing in other agencies where functions have been transferred to the new department.

Now may be a good time to press for a new department because of the public recognition given to the trade deficit and dollar problems abroad. Any reorganization proposal encounters Congressional jurisdiction difficulties, while the longer-range Administration position on the issue cannot be predicted.

RECOMMENDED CHANGES TO S. 377

We believe that the bottom line to this analysis regarding an International Trade and Investment Department proposal comes out clearly on the positive side. There is now better recognition of the serious international trade problems facing this country and a growing consensus that strong steps must be taken to help correct the continuing prospect of a large national trade deficit. Government reorganization is not a panacea, but it is a necessary step to complement other policy actions. It is NAM's position that the consolidation of current international trade and investment functions into one department is the best alternative approach to this problem. We support passage of the bill (S. 377), but we would like to suggest a few modifications to it.

The major change which we would recommend for S.377 is the addition of a specific inter-agency coordination mechanism. It must be recognized that even with the formation of DITI, the State and Treasury Departments would still retain limited basic staffs to deal with major international economic issues, where their basic governmental role requires that they deal with foreign governments on questions related to such issues. Other agencies whose role is basically domestic also are involved in policy matters affecting business abroad. Some examples of such overlap are the Environmental Protection Agency, the Civil Aeronautics Board, the Nuclear Regulatory Commission, the Federal Trade Commission, the Federal Communications Commission, the Antitrust Division of the Justice Department, etc. An inter-agency policy coordination mechanism seems desirable to tie these agencies into the policy process, as well as to make certain that DITI takes into account the viewpoints of the mainline Departments of State, Treasury, Commerce, Labor, Agriculture, Energy and Defense.

The inter-agency coordination mechanism could have two levels. First, a coordinating body could be set up in DITI with standing committees in major issue areas such as international commodity policy, export promotion, trade and investment negotiations, etc. The regulations governing this inter-agency body should give clear policy

leadership to DITI, whose staff would act as its Secretariat, thereby enabling the coordination mechanism to achieve better policy consistency and effective international negotiating leverage.

Some issues, of course, will ultimately need a focal point for White House decisions. This need seems most likely to arise where the issues involve particularly complex interrelationships between domestic and international economic policy and in regard to policy items with a high domestic or foreign political content. Therefore, the second coordination level should involve an International Trade and Investment Group (ITIG) created in the White House, with appropriate Cabinet-level membership, but chaired by the DITI Secretary. This Group, with a small staff to handle meeting mechanics and the preparation of papers for the President when necessary, would be designed to insure top-level inter-agency consideration of major policy issues with an over-all or government-wide focal point that can best be achieved at the White House.

Some issues obviously still would be susceptible to bureaucratic pulling and hauling, especially as to whether the decision-making body should be ITIG or the Economic Policy Group (EPG). However, such conflict probably would be unavoidable under any circumstances and the ITIG mechanism at least gives the DITI Secretary a better advocacy position and a higher degree of expertise regarding international economic concerns than currently exist in White House councils. In contrast to a CIEP-type alternative, the ITIG would not be expected to handle the broad range of mid-level inter-agency issue coordination (this function would be performed by the DITI-based mechanism). Thus, the narrower mandate of ITIG, focusing on only important issues unresolved at lower official levels, should allow sufficient attention to key issues without resort to a large White House staff. This approach also recognizes that active direct Presidential involvement is a factor which cannot be assumed on a continuing basis. Therefore, the Group's chairmanship is delegated to the DITI Secretary, allowing for discretionary Presidential participation as warranted, yet

giving the Group Chairman more stature than if the position were held by a sub-Cabinet level appointee.

A second modification to the bill would be to incorporate the International Trade Commission (ITC) fully into the new department. The ITC could function in the same semi-autonomous manner as provided in the bill for Eximbank and OPIC. We recognize the legislative history behind a fully independent ITC, but we question if the rationale would be as valid in the light of a broad reorganization giving one Cabinet Secretary clear responsibility in the international trade area and specifying strong Congressional oversight authority of that department's work. We do not believe it necessary to retain some parts of the ITC's international trade functions in a fragmented manner outside of a consolidated departmental structure.

Finally, we suggest some further broadening and/or clarification of the proposed department's authority, specifically in the areas of trade adjustment assistance and foreign aid. A DITI should have overall responsibility for and authority over trade adjustment assistance policy. This change is especially desirable given the probable relationship of trade adjustment assistance programs to any final agreement on a multilateral safeguards code. Provision should be made, however, for a delegation of program implementation authority to other departments, if appropriate. For example, the Labor Department logically should administer the worker adjustment assistance programs, but DITI should have full authority over the program's policy aspects to assure that it fits within a coherent national trade policy. A good model for this approach is provided in the bill already, where DITI is given authority over international agreements on agriculture, but many Foreign Agriculture Service implementation functions are retained by the Agriculture Department. We believe that the agriculture and trade adjustment assistance programs are sufficiently specialized that they would benefit from administration within one of the other departments, but DITI should have general international policy authority over both areas.

In regard to foreign aid, we suggest a limited role for DITI concerning the use of mixed credits. This is an area where the U.S. is being placed at a disadvantage by other governments which are able to offer a trade financing package with concessional aid components in it. Perhaps the best way to handle this issue in the bill would be to add in Section 4 a function specifying that DITI should coordinate the use of mixed credit arrangements until such time as some effective international harmonization standards on this practice are established.

#### COMMENTS ON OTHER REORGANIZATION PROPOSALS

The preceding discussion has covered the benefits of consolidating the government's trade and investment functions and authorities into a Department of International Trade and Investment, as well as suggesting some possible improvements to S. 377. We believe that such a modified proposal represents the best reorganization option and urge its serious consideration by the Congress.

Sponsors of the other alternative reorganization proposals in the Senate and the House should be commended highly for recognizing the pressing need for trade reorganization. NAM's relative enthusiasm or lack thereof regarding these other options can be measured against the objectives of the preferred best alternative option outlined above.

Before closing, I would now like to make a few comments specifically on the Administration's proposal which was submitted to the Congress on September 24. Many of the details of Reorganization Plan No. 3 remain unclear, and we will simply have to see how the plan is more specifically defined over the next two months or so. However, a preliminary assessment of its merits and flaws can be made.

The Administration's reorganization plan does recognize many important problem areas which have plagued this country's ability to conduct and implement an effective

trade policy over the past two decades. We see merit in those elements of the reorganization proposal which consolidate some of the Executive Branch's currently scattered trade functions. More specifically, we support: (1) the consolidation into one office of negotiating authority over a broad range of international economic subjects, which will be contained in the Office of the United States Trade Representative, (2) assigning the Department of Commerce a larger role in expanding American exports through an administration decision to transfer the Foreign Commercial Service from the Department of State to Commerce and other related functions, and (3) the Administration's commitment to place a stronger emphasis on improving this country's currently inadequate export performance.

Obviously, the reorganization plan put forward by the Administration represents a compromise between its desire for an expanded policy role for Commerce and desires for a new Department or a stronger STR. After reviewing the Administration's new proposal, however, we are of the view that it does not go far enough in meeting the necessary objectives of reorganization which are contained in S. 577 and H.R. 3859. The proposal puts two agencies in charge of trade rather than consolidating all responsibilities in a single cabinet department. As a result, policy and implementation functions are split between a White House Trade Representative Office and a restructured Commerce Department. An even further division of authority occurs when Commerce trade responsibilities are delegated to an Under Secretary, thereby adding a new actor to the process and meaning that the Secretary will continue to be occupied by a variety of traditional non-trade matters.

Vitally important MTN follow-up responsibilities are also split between the Trade Representative and Commerce, so that the negotiators are separated organizationally from investigators, analysts and other staff support functions. The Trade Representative is given broader new negotiating responsibilities, but no additional staff to carry them out. Either these issues will not receive the attention they deserve, or



else there will again be an awkward reliance on staff controlled by other organizations. One gets the impression that the reason for separating the trade personnel in this manner may have more to do with considerations regarding the size of the White House staff rather than economic or good management criteria. We believe that these trade areas are too important to artificially split policy and negotiations from analysis and implementation in this manner. Such a division will only be detrimental to the objectives of sustained, coherent international trade programs.

Several important policy areas also appear to be short-changed in the Administration's proposal. Export expansion is not given priority attention in the new organizational arrangement. International investment policy is fitted within a broadened agenda for the Trade Policy Committee, but no practical consolidation of authority or functions is accomplished. Even the transfer of overseas commercial officers to the Commerce Department is a partial measure, since it affects only those officers located in certain foreign countries.

In summary, we believe that the Administration's proposal falls short of the prompt, forceful action needed to address the country's urgent trade problems. In the end, trade authorities and functions still would be split unnecessarily. We need one strong trade policy leader, who has the full implementation resources of a unified cabinet department, including the negotiating authority to both "reward" and "punish." The Administration's proposal does not meet this standard and therefore is significantly weaker than S. 377.

#### Conclusion

Mr. Chairman, I would like to commend you, along with your colleagues, for perceiving the urgent and serious task facing this country in the international marketplace, and for taking the initiative to begin steps aimed at meeting this challenge. Certainly a reorganization of governmental functions by itself is not a complete answer to our problems, but it is a necessary if not fully sufficient step toward their solution.

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WOODCLIFF LAKE, NEW JERSEY 07075

EXECUTIVE OFFICE

August 17, 1979

**RECEIVED**

**OCT 26 1979**

**LEGISLATIVE AND JUDICIAL  
Security Subcommittee**

The Honorable Abraham A. Ribicoff  
United States Senate  
Washington, D. C. 20510

Dear Senator Ribicoff:

When I testified before your Committee on Governmental Affairs on July 25, 1979, regarding the matter of government's trade functions, you requested that I send you specific examples of business that had been lost to American companies because of either government interference or a lack of government support.

On the attached list you will find specific examples taken from three companies -- Ingersoll-Rand, J. Ray McDermott and FMC. I know that you can get similar information from other companies. Mr. Reginald H. Jones, Chairman of General Electric, states recently at a government conference that he felt the loss to General Electric was in the billions of dollars. From the standpoint of Ingersoll-Rand specifically, I feel that our loss over a five year period would be in the range of \$200 - \$300 million.

Also, I would like to take this opportunity to clarify one point raised during the question and answer period following my testimony on July 25. The NAM proposal as it relates to the Export-Import Bank does not contemplate any change in the Eximbank Board of Directors, or its independent status. I certainly agree that Eximbank is one of the few U.S. government organizations which currently is doing a good job with respect to trade policy. The relationship described in NAM's recommendations simply is aimed at strengthening the support given Eximbank within the Executive Branch. We believe that Eximbank deserves better support, for instance by a Trade Department, in matters such as the recent controversy over environmental restrictions on overseas projects, periodic Congressional budget deliberations and the negotiation of multilateral agreements on export credit financing.

For your information, in case you missed it, I am attaching a copy of a recent story out of the Washington Star emphasizing the confusion that exists in government agencies relating to international trade.

Ingersoll-Rand Co., Inc.

WOODCLIFF LAKE, NEW JERSEY 07675

EXECUTIVE OFFICE

August 17, 1979

**RECEIVED**

**OCT 25 1979**

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On the attached list you will find specific examples taken from three companies -- Ingersoll-Rand, J. Ray McDermott and FMC. I know that you can get similar information from other companies. Mr. Reginald H. Jones, Chairman of General Electric, states recently at a government conference that he felt the loss to General Electric was in the billions of dollars. From the standpoint of Ingersoll-Rand specifically, I feel that our loss over a five year period would be in the range of \$200 - \$300 million.

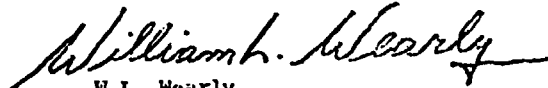
Also, I would like to take this opportunity to clarify one point raised during the question and answer period following my testimony on July 25. The NAM proposal as it relates to the Export-Import Bank does not contemplate any change in the Eximbank Board of Directors, or its independent status. I certainly agree that Eximbank is one of the few U.S. government organizations which currently is doing a good job with respect to trade policy. The relationship described in NAM's recommendations simply is aimed at strengthening the support given Eximbank within the Executive Branch. We believe that Eximbank deserves better support, for instance by a Trade Department, in matters such as the recent controversy over environmental restrictions on overseas projects, periodic Congressional budget deliberations and the negotiation of multilateral agreements on export credit financing.

For your information, in case you missed it, I am attaching a copy of a recent story out of the Washington Star emphasizing the confusion that exists in government agencies relating to international trade.

Finally, I would like to re-emphasize the importance of improved productivity in American industry to our overall position in world trade. It is difficult to evaluate the insidious effect of a multitude of government programs and constraints which ultimately sap the will of corporations and of "people" to move ahead to greater achievements and improved productivity. Too many priorities have been placed ahead of this. I, personally, don't like to ask for government incentives. Rather, I would prefer to see government disincentives removed.

In conclusion, I again emphasize my personal support and that of the NAM for a Department of International Trade and Investment, as proposed in the Roth-Ribicoff Bill, with certain modifications, as outlined in my testimony. I cannot support the two-headed approach proposed by the Administration, as I feel that it typifies and continues the conflicting approach we now follow.

Very truly yours,

  
W.L. Wearly  
Chairman

WLW/tf  
Attachment

## Attachment 1

EXAMPLES OF U.S. EXPORT OBSTACLES

The following examples represent a cross-section of obstacles faced by U.S. firms in the export market. The illustrations can be classified generally as either (1) self-imposed government restrictions, or (2) inadequate government support. Items from both categories can be traced to an underlying cause of neglect -- the low government priority given to export expansion. There has been no firm commitment nor strong trade leader to either challenge policies adversely impacting U.S. exports, or initiate programs to offset the government support given to foreign competitors. The U.S. government's structure has short-changed international business objectives. No mainline department is charged with the principal policy mission of strengthening U.S. competitiveness in world markets. As a result, the give-and-take between competing and at times conflicting policy objectives, U.S. export policy has suffered from lack of a strong organizational advocate. ..

1. In early 1978 Ingersoll-Rand lost \$8 million worth of compressors for Acominas in Brazil to a Japanese firm. A major reason for the loss of the sale was that the Japanese government allows the development of country marketing strategies by consortiums of manufacturers. U.S. antitrust regulations would prohibit any similar joint planning between major U.S. companies to decide, for example, which firms would supply components for which plant on a rotating basis.
2. Ingersoll-Rand was offered an order from a Swedish international distributor for several compressors for use in hospitals in Vietnam. The order was eventually filled by a Swedish manufacturer when Ingersoll-Rand was turned down in its request to U.S. government for permission to ship this equipment.

3. In mid-1977 Ingersoll-Rand was negotiating with a European company, with whom they had previously done business, for \$1 million worth of Rock Drills for Iraq. Because of restrictions relating to U.S. anti-boycott policy Iraq instructed the European buyer not to purchase from a U.S. company and the order was placed with a Swedish manufacturer.
4. In 1977 J. Ray McDermott Co., Inc., submitted a bid of approximately \$25 million to Argentina for a gas pipeline. The contract was awarded to a French contractor for approximately \$51 million. J. Ray McDermott Co., Inc.'s judgment is that the work was awarded to their French competitor because of payments which would have been illegal under U.S. law.
5. In mid-1977 Ingersoll-Rand was negotiating for \$6 million worth of pumps and compressors with Fluor Corporation for Sasol plant expansion (including substantial technology and product duplication furnished by Ingersoll-Rand for the original coal conversion plant) in South Africa. Because of human rights considerations, Sasol decided not to consider U.S. manufactured equipment in view of the undependability of suppliers to obtain government authorizations to meet commitments. The U.S. government also refused financial support and South Africa then obtained loans from Japan and France. Although some equipment was furnished by American-Japanese/French licensees, no major equipment was purchased from direct American sources.
6. In mid-1976 FWC Corporation had no order for filters for South Africa. But since these were being ordered by the South African military, they could not accept the order under U.S. law. The only difference between these units and some they were already supplying to municipalities in South Africa was the color of the paint. In a

state of emergency, the municipal units certainly could be preempted by the South African military. Thus, the U.S. government's regulations, in effect, excluded them from a significant volume of export business, with doubtful policy results. The real result was that the South African government ordered the units -- \$7 million worth of U.S. jobs and profits -- from a German firm.

7. In early 1977 Ingersoll-Rand lost \$3 million worth of compressors from Pemex in Mexico to Italian competitors. The Italian government and the Mexican government agreed upon a low interest loan partially repayable by barter which was more favorable than the Export-Import Bank was prepared to grant.
8. Babcock and Wilcox Division of J. Ray McDermott & Co., were negotiating with a Mexican company for \$18 million worth of equipment for a power project. The Eximbank refused to offer financing unless the Mexican customer changed the specifications for the precipitator efficiency from the specified 97% to 98% as required by U.S. environmental standards. The customer refused to modify the specifications and the business was placed with a Swedish supplier.
9. In the fall of 1978 Ingersoll-Rand planned a private fair in Egypt to exhibit construction equipment. The U.S. Embassy in Egypt was asked to send a letter to the Cairo customs office to guarantee payment of customs duties on machinery not re-exported. The local commercial attache replied that his guidelines did not permit dealing with a fair unless the trade fair was controlled by a U.S. company and had full government participation. Ingersoll-Rand thus was denied the necessary letter and was unable to exhibit its products. A German competitor was able to get such a letter (a form letter) from the German Embassy in Egypt and therefore was able to exhibit and sell its products to Egypt.

10. The U.S. government has still done little in terms of exhibits, fairs, etc. for the U.S. businessman in the Peoples Republic of China. Last month Ingersoll-Rand, an American corporation, had an exhibit in a British Energy Show to get our corporate presence advertised in the PRC. The United States is very late on this point and for years we have been riding on the coattails of our British and Canadian companies in Peking exhibits.
11. In 1972 Ingersoll-Rand Co. U.S.A. lost \$2 million worth of gas engine machinery for Petrabras in Brazil to Ingersoll-Rand Co. Ltd. U.K. Eximbank terms were not competitive with the British terms which also specified that not more than 7% of the total job could be sources outside of the United Kingdom. Although it was not a real loss to Ingersoll-Rand Co., job hours in the U.S.A. were lost.
12. In early 1977 Ingersoll-Rand and other American companies were negotiating with the U.S.S.R. for over \$200 million dollars worth of equipment for a gas pipeline. Although the negotiations were successful the orders were held up and later placed with a European consortium because of human rights considerations and U.S.A. failure to grant most favored nation status to the U.S.S.R.



THE WASHINGTON STAR  
Thursday, May 26, 1979

# Two Agencies of U.S. Clashing On Japan Exports, Weil Says

By Leonard Curry  
Washington Star Staff Writer

While one wing of the U.S. government has been working on Japan to reduce its flood of exports to the United States, another has cautioned the Japanese that undue restraint may violate U.S. antitrust law, according to an administration official.

"I found it ironic that the Justice Department again is off on one of its larks," said Assistant Commerce Secretary A. Frank Weil, who has been in the forefront of administration efforts to balance trade with Japan.

Japan's export flood of cars, television sets and steel last year contributed as much to the plunging value of the dollar and the U.S. deficit of trade as all from the Organization of Petroleum Exporting Countries.

In the past 27 months, Japan has drawn some \$30 billion from the United States, as its sales exceeded its purchases of American goods.

**IN NEGOTIATIONS** with President Carter, Ambassador Robert S. Strauss and other American officials, Japan has agreed to act to slow exports until the United States can increase its sales to Japan.

Weil told a Senate Foreign Relations subcommittee yesterday that he learned of the Justice Department efforts from the U.S. Embassy in Tokyo. Weil said the embassy was not informed of the meeting by the State Department, but learned of the sessions from the Japanese. He later expanded his remarks by telephone.

Weil said it was his understanding that the Justice Department was concerned that a Japanese policy to restrain exports to the United States might violate U.S. antitrust law because of its impact on American companies that sell Japanese products.

While explaining that he did not know all the facts about the antitrust meeting, Weil said the Justice Department program appeared to be an example of contradicting federal policies working to the detriment of the nation's exports and dollar problem.

"They're entitled to their view, but I don't agree with it," he said.

**THE U.S. EMBASSY** in Tokyo, he had been "by-passed." Weil said, in for no other reason than that most of the Japanese government representatives at the meeting worked at the Ministry of International Trade and Industry in Japan.

The leading U.S. lawyer at the meeting, Douglas E. Rosenthal, would not discuss the purpose of the meeting or identify any of the participants. Rosenthal, who heads the foreign commerce section of the antitrust division, acknowledged only that he met with representatives of the Japanese government.

Toshihiko Tanabe, first secretary for commerce at the Japanese Embassy here, said he had attended the sessions with Rosenthal. Tanabe said MITI representatives accompanied him to the meetings, which Tanabe called "purely academic discussions."

Tanabe was the guiding force for MITI's aggressive export policy of the 1970s. The officials from MITI's industrial policy section who were in Tanabe's party were described by one American official as "the architects of MITI policy for the 1980s." Rosenthal is the author of a Justice Department publication on the impact of U.S. antitrust law on international commerce.

**A STATE DEPARTMENT** spokesman said the department's Japan desk was represented at the Justice Department meetings. The spokesman said the Japan desk had "committed an oversight" by not informing the U.S. Embassy in Tokyo immediately.

The embassy has requested information on the session and a report is being prepared, he said.

"I think this is an example of policy in the formative stage. There is nothing of substance here. I would agree with Tanabe's characterization that it was 'academic' in nature."

But Weil said academic discussions in diplomatic circles do lead to concrete developments. "We just can't go around half-cocked. There has got to be some coordination of policy," the assistant secretary said.

Weil said he did not know whether antitrust laws Japanese companies could violate if they followed the government's policy to slow exports.

"From a public antitrust point of view, a restraint of trade, because it inhibits American importers of Japanese products by reducing their ability to compete and could possibly affect Japanese subsidiaries here," Weil said.



Assistant Secretary of Commerce



# NATIONAL TREASURY EMPLOYEES UNION

Suite 1101 — 1730 K Street, N. W.  
Washington, D.C. 20006 (202) 785-4411

October 26, 1979

Security Subcommittee  
Legislation and National

The Honorable Jack Brooks  
Chairman, Committee on  
Government Operations  
2157 Rayburn House Office Building  
Washington, D.C. 20515

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Dear Representative Brooks:

We thank you for permitting us to submit a statement supplementing the record of your hearings on Reorganization Plan No. 3 of 1979, the Administration's proposal to consolidate trade functions.

The National Treasury Employees Union represents 115,000 Federal workers, including all employees of the U.S. Customs Service. Some of these Customs workers would be affected by the reorganization plan your Subcommittee is now considering.

This plan would remove functions relating to trade and revenue collection from the various agencies in which they are currently lodged and would place them in a new government agency.

Our union is firmly opposed to the removal of any of the revenue functions that are performed by the U.S. Treasury Department. The assessment and collection of revenue has always been a responsibility of the Treasury Department. To reassign those duties to a new department would discard 200 years of experience in revenue collection and needlessly disrupt what is now an orderly and overall efficient law enforcement process.

We have been asked specific questions about our views on the proposed transfer of function. We would like, with your permission, to have those questions and our answers added to the hearing record on Plan 3.

1. "What is the basic rationale for the transfer of part of the responsibility for antidumping and countervailing duty functions to a new Department of Trade and Commerce? In other words, what short comings of the present division of responsibilities between the Treasury Department and the International Trade Commission would be corrected by placing a part of the responsibility in an additional agency?"

National Headquarters, Washington, D.C.

It seems to us that whatever shortcomings others have perceived in the present process would be exacerbated by further division of the responsibilities for enforcing the antidumping and countervailing duty laws.

These laws were both enacted to protect domestic industry, and the U.S. Customs Service was entrusted with enforcement of them pursuant to its role as the guardian against the illegal or harmful importation of goods and merchandise.

Under the antidumping statute, Customs is responsible for responding to complaints that a shipment of goods from a foreign nation is to be offered for sale in the United States at an artificially low price. A foreign country might lower the selling price of goods for export through subsidies to a manufacturer in an effort to create a market abroad and/or to stimulate an industry.

After the complaint has been lodged, Customs employees must determine whether or not the merchandise is being sold at the fair market value. This assessment is an extremely complex one and involves determining the cost of production in the foreign country and factoring in local economic information such as how industry sells its goods, how it determines costs, how its workers are compensated, and many other matters. Especially in a controlled economy that does not determine the value of labor or goods through the interaction of supply and demand, this "fair market" determination is a very difficult procedure.

Once the investigation is completed by the Customs Service, the International Trade Commission determines whether or not the importation of the subsidized merchandise is actually harmful to U.S. industry.

After this research is completed, a recommendation is sent to the Secretary of the Treasury who makes a finding of whether or not illegal dumping has occurred. If the finding is affirmative, then the Secretary levies an extra "dumping" duty, which is the amount by which the merchandise falls short of its fair market value.

The legislation under consideration by your subcommittee would further fragment this process and make it inefficient and unwieldy. It would separate the processes of assessment and enforcement and in so doing would undercut both. As it is now, the technical branch of Customs, which investigates anti-dumping cases, and the employees who enforce the determinations are in frequent contact with one another and rely upon each other to exchange information and implement policy. To place the investigative function in an agency other than Customs would virtually assure mismanagement, lack of communication, and confusion among those responsible for upholding the anti-dumping law.

2. "Whether or not the functions are transferred, how should antidumping and countervailing duty operations be structured and staffed to avoid present deficiencies?"

The so-called deficiencies in the administration of these statutes are no more than a strict adherence to the laws as they were written. It seems to us that Congress has already taken a major step toward improving the deficiencies by streamlining the present procedures which are now in existence. To then take these functions out of the Treasury Department, which has developed the expertise to enforce these laws over the years, is tantamount to taking one step forward and two steps backward.

A more efficient and expeditious way to implement these statutes would be achieved if, instead of removing the function from the Treasury Department, the Congress sought instead to increase the personnel in the Customs Service who are responsible for enforcing the antidumping and countervailing duty laws.

3. "If there is a transfer, how would the policy operation in the new agency interrelate with the basic data and investigative resources that would remain behind in the Customs Service?"

As we have stated, it is our belief that the most efficient and effective way to administer laws as complex as those regulating antidumping and countervailing duty is to keep all the related functions in the Treasury Department.

The U.S. Customs Service has been recommending the disposition of anti-dumping and countervailing duty cases since those laws were passed. It has developed expertise and knowledge in the area, as well as the practical ability to implement the policy determinations at the workplace. Customs personnel at the docks and airports recognize "dumped" goods as well as merchandise requiring a countervailing duty. They are kept apprised of new findings by their colleagues in other branches of Customs.

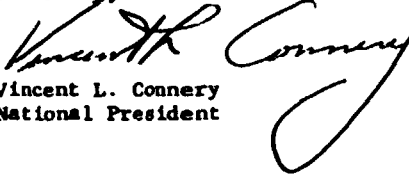
There are historical and practical reasons for maintaining these functions in the Treasury Department. But beyond these, there is always a tendency among groups of people to share information where there is a community enterprise and a common goal the group is striving to achieve. Conversely, there is a tendency to develop a rivalry with another group or organization when functions are divided. Thus, to split the countervailing duty and anti-dumping responsibilities between the proposed new Department of Trade and Commerce and the Treasury Department is to invite factionalism and competition rather than the cooperation and free flow of information that now exists between the various branches of Treasury that carry out functions under these laws.

4. "If a new Department of Trade and Commerce is to make injury determinations under Section 337, should it not also make injury determinations under the antidumping and countervailing duty statutes?"

The short answer to this question is, "No." One injury determination is not the same as another injury determination, and there is no effective rationale for assigning different kinds of determinations to any one agency. An injury determination under the antidumping and countervailing duty statutes is a necessary prerequisite to a finding of dumping or harmful countervailing duty. If there is no injury to a United States industry, there is no dumping and no need for countervailing duty. To suggest separating the injury determination from the rest of the investigation now performed by Customs is like proposing that one person break the eggs, a second scramble them, and a third cook them. To put it briefly, dividing a function such as a dumping investigation into numerous disparate parts is to complicate the process unnecessarily and to introduce the possibility for communications breakdowns and delays.

In summary, our union is opposed to those portions of the Plan that would remove antidumping and countervailing duty functions from the Customs Service which is familiar with these laws and has always administered them. To fragment their administration between Customs and Commerce is to invite disruption and chaos in an operation that has functioned well.

Sincerely,

A handwritten signature in dark ink, appearing to read "Vincent L. Connery", with a large, sweeping flourish at the end.

Vincent L. Connery  
National President

SM:VLC:s1

**Statement of**  
**The Associated General Contractors of America**  
**Presented to the**  
**Subcommittee on Legislation and National Security**  
**of the**  
**Committee on Government Operations**  
**United States House of Representatives**  
**October 18, 1979**

**On the Topic of**  
**The Reorganization of the Federal Government's**  
**International Trade Functions**

**AGC is:**

- \* More than 30,000 firms including 8,000 of America's leading general contracting firms responsible for the employment of 3,500-plus employees;
- \* 113 chapters nationwide;
- \* More than 80% of America's contract construction of commercial buildings, highways, industrial and municipal-utility facilities;
- \* Approximately 50% of the contract construction by American firms in more than 100 countries abroad.

In presenting the position of the AGC International Contractors on the reorganization of the federal government's international trade functions, it is necessary to examine not only the functional organization of U.S. trade policy, but the substantive content as well.

In the course of only three years, U.S. contractors have dropped from first to fifth place in terms of new contracts awarded in the international construction market. From a market share of 15% in 1976, U.S. contractors fell to an estimated 7.9% in 1978.

The loss of construction business abroad translates directly into reduced benefits for the U.S. domestic economy. Construction contracts typically result in the expenditure of 40 to 60 percent of the total contract volume on U.S. goods and services, or what we count as direct exports. The job-generating effects of construction exports are substantial. The \$50 billion of overseas construction awarded to U.S. contractors in the period 1975 to 1977 equals between 800,000 and 1.2 million Americans employed, applying the formula that every additional \$1 billion of U.S. exports creates 40,000 jobs. This does not include the many Americans employed overseas by the U.S. construction industry.

Exports of U.S. construction services create overseas sales of U.S. merchandise and ensure a spare parts market for years to come. The initial design and construction of industrial facilities and civil works by the U.S. engineering and construction industry increases the likelihood that future plant expansion and development will also be procured in the U.S. It is in the interest of the nation as a whole that the U.S. construction industry be capable of successfully competing in world markets in the future.

U.S. trade policy can be divided into two categories of government involvement affecting the export industries: export disincentives and export promotion.

By export disincentives, we mean such impediments to trade as the noncompetitive taxation of U.S. citizens abroad, anti-boycott, antitrust and anti-bribery legislation, environmental reviews and human rights policies. Trade has become a tool for foreign policy purposes, and no accurate figures are available on the lost export business associated with each new trade regulation. There is a myriad of unrelated laws and regulations creating a series of stumbling blocks and an aura of uncertainty that, in turn, produces a chilling effect on anyone's plans for doing business overseas.

AGC believes that the trade reorganization should be accompanied by a statutory requirement which would direct the designated lead agency on international trade to prepare trade impact assessments (TIA's) identifying the trade costs of all major existing and proposed legislative and regulatory measures affecting U.S. exports.

We have developed a fact sheet on the TIA mechanism, which we would ask to be entered into the hearing record.

National security and foreign policy considerations are today receiving disproportionate attention relative to our trading interests. Rutherford Poats, of the National Security Council, has estimated that between \$5 and \$8 billion of potential export business is lost each year due to U.S. government regulations. This means that export regulations and disincentives imposed by our own government could be responsible for as much as 15-23% of our trade deficit. One can question whether national security and foreign policy considerations should automatically justify losing such enormous amounts of overseas business.

Poats is basing his figures on the results of a major trade cost study which the government has undertaken in compliance with the President's export policy statement of September 26, 1978. This interagency project, coordinated by the so-called Export Disincentives Task Force, covers 16 disincentives, but does not include a trade cost analysis of the single most costly and export-impairing disincentive - Section 911 of The Foreign Earned Income Act of 1978. We believe that an assessment of lost exports due to this non-competitive tax legislation must be performed.

The government's export disincentives study is presently classified, and the full particulars are not available. However, we believe that if this trade cost study is to have any significant export promoting effect, the trade cost data associated with the various disincentives must be disclosed to the Congress and the public.

We recognize that national security and foreign policy considerations in certain situations must receive first priority, even if a loss in trade is apparent and inevitable. However, we must ensure that the trade argument is coherently presented and empirically supported through a formal mechanism assessing the lost export business resulting from major export disincentives. A strong trading posture for the U.S. is becoming both a national security and foreign policy necessity.



The costs of foregone export business, which ultimately are borne by the American consumer, must be clearly understood and considered when foreign policy initiatives are contemplated. The trade impact assessments are necessary for this purpose.

We have presented a constructive proposal to deal with export disincentives, and we can now turn to the export promotion efforts of the U.S. government. There are two forms of export promotion: indirect or general trade promotion and direct or specific trade promotion.

The indirect or general trade promotion consists of the traditional work done by the Commerce Department and the commercial officers at our embassies abroad. This is an important part of the overall effort by the U.S. government to promote trade, even though the results are difficult to quantify.

The direct or specific type of trade promotion operates at the level of actually getting the business, signing the contract and completing the job. This direct form of government promotion is the more important for U.S. contractors competing overseas. Competitive project financing, competitive taxations, loan guarantees, performance bonds, political risk insurance, feasibility finance ----- these are the services that we need from our government to be competitive abroad. We predict that no matter how much the government reorganizes its general trade functions, we will experience very little export expansion unless these specific tools of trade are identified and substantially improved.

The U.S. construction industry has traditionally been opposed to the principle of government subsidies to private industry, but we must concede that in order to be competitive in the overseas markets, we need U.S. government policies and programs which improve our competitive posture.

The export-import bank is doing an effective job given its limitations; but, it should have substantially increased lending authority. We need adequate project finance at competitive rates equal to what other governments offer their construction exporters. With insufficient bank funds, higher risk construction projects in developing nations must today compete for finance against lower risk commodity sales or manufactured goods, with the construction projects receiving lower priority. We believe that such competition for bank funding should be eliminated, perhaps by earmarking adequate percentages of bank funds solely for project finance.

The amazing fact is that, instead of experiencing a steady increase in funds to respond to the growing needs, Eximbank's direct credit authorization dropped from \$3.8 billion in 1974, corresponding to an export value of \$8 billion, to a low of only \$700 million in 1977 direct credits, supporting \$1.4 billion to export value. The bank is not expected to exceed its 1974 lending authority until 1980!

Expansion of Eximbank funds and the maintenance of its present independence is one of the most cost-effective methods of securing new export business; and, in our opinion, this requires tripling or quadrupling the proposed funding level of \$4.1 billion for FY 1980. Competitive project financing is quickly becoming the most important aspect of a successful bid.

We have talked about the need for direct and specific trade promotion, of which the programs of Eximbank are one example. Rather than take the Committee's time to discuss additional programs, we would ask that the attached appendices outlining these suggestions be entered into the hearing record.

The ultimate purpose of any reorganization of trade functions must be to first, elevate trade policy to a more appropriate level in the decision-making process; and secondly, to initiate both general and specific trade promotional programs designed solely to improve our export performance; and finally, to ensure cross-agency, cross-legislative coordination and point responsibility so that one action is not negating or inhibiting another trade promotion action.

These objectives clearly require the consolidation of trade responsibilities under the auspices of a single lead agency and one cabinet-level spokesman. However, we have interpreted the current mood in the administration and on the hill to suggest that something less than a new department is a more realistic aspiration at this point.

Given this situation, and the fact that we ultimately support the notion of one government agency combining both trade policy and its implementation, we have examined the various reorganization proposals in an attempt to find a compromise solution which would provide maximum consolidation without creating a new department. In our opinion, the Administration's proposal does not go far enough in consolidating trade functions. We are particularly concerned about the separation of policy-making from the operational

trade functions, considering that this very separation and fragmentation of policy and implementation is, in large part, responsible for our current trade dilemma.

The Gillis Long Bill suffers from this same problem. However, by creating an independent special trade agency outside of the executive branch, and by substantially expanding the authority of this agency beyond the current responsibilities of the S.T.R., the Gillis Long Bill, in our opinion, creates the nucleus for a future single department of international trade with policy and operations under the same roof. Short of a new department incorporating existing fragmented trade functions, we therefore favor the Gillis Long Bill as the most satisfactory solution at this point.

In this context, we want to emphasize once more that no consolidation of trade functions will adequately serve the interests of trade expansion unless accompanied by the statutory requirement of trade impact assessments as outlined earlier.

Finally, it must be clearly understood that the U.S. construction industry wants the reorganization to generate a flexible trade policy approach designed to meet specific industry needs, making it possible for us to expand our exports in the 1980's.

APPENDIX 1

## International Construction Division

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA  
1867 E Street, N.W. Washington, D.C. 20006 (202) 393-2040

June 26, 1979

### PROPOSAL TO DEVELOP GOVERNMENT FACILITY FOR GRANT-IN-AID FUNDING OF FEASIBILITY STUDIES FOR MAJOR CAPITAL PROJECTS OVERSEAS

In response to the increased use of mixed credits on the part of the industrialized nations of Europe and Asia in the financing of major capital projects in the developing world, and recognizing Eximbank's limited ability to effectively counteract these practices on behalf of U.S. exporters, the following proposal suggests one possible means of improving the competitive position of U.S. companies pursuing such projects.

#### Nature of Project Feasibility Studies

The key element in the successful development of large industrial and civil infrastructure projects in both industrialized and developing nations is the preparation of the project feasibility study. The feasibility study identifies for the project's promoters, owners and financial backers the economic and social benefits which can be expected to accrue from a given project, as well as the costs associated with the financing of the work and operating the completed facilities. The feasibility study is, in fact, the primary evaluative tool for proposed projects and is the basis upon which implementation decisions are made. The costs of feasibility studies vary from project to project; however, a standard approximation of their costs falls in the range of between 1% and 3% of the total project costs. In many cases, these costs prohibit a developing country owner from proceeding with many categories of low priority, yet financially viable, development projects.

International contractors interested in carrying out these projects must then assist such owners in sourcing competitive financing for the required feasibility studies. This assistance takes several forms, ranging from government-backed credits with low rates of interest, to outright grants from the bilateral lending agencies of a contractor's country of origin.

The willingness of these government agencies to concessionally finance the feasibility study stems from the increased likelihood that the project itself will be awarded to a contractor from the same country which prepared the project feasibility study. This correlation is due to the high degree of compatibility between the conceptual framework of the project as identified in the feasibility study and the follow-on engineering design. If standard U.S. technological applications are specified in the feasibility study, the design and construction can be carried out more efficiently by a U.S. contractor familiar with the applications. Some countries reportedly will grant the feasibility study if the client agrees to contract the follow-on design and construction with a contractor from the country. The export credit agencies of these nations will also arrange project financing for the project itself, provided that a majority of the procurement for the project is tied.

In the area of integrated, multi-phase industrial development, particularly in chemical process, it is the initial feasibility study which sets the design standards for the entire complex. In such work, the feasibility study is the key to the follow-on business, and the merchandise trade which accompanies such projects is a leading source for new orders of capital and manufactured goods.

While Eximbank is empowered to respond to such mixed credit competition, budgetary limitations prohibit them from effectively counteracting these practices (total lending authority, \$3.6 billion for FY 1979). In short, the Bank has limited funding available for grant or concessional financing operations, and is also directed by statute to be self-sustaining and thereby cannot afford to engage in concessional financing to any major extent.

With the exception of the loans and grants made under the Security Supporting Assistance program (SSA), the Agency for International Development (AID) has dramatically reduced the level of AID financing for capital projects. AID's decision to get out of the construction business is consistent with the New Directions program emphasizing basic human needs (BHN) rather than the "trickle-down" theory of capital-intensive development. The office of Reimbursable Services (RS) at AID has funding available for feasibility studies, but the level (approximately \$3 million) is not large enough to meet the competitive needs of the industry.

Consequently, U.S. contractors competing for major capital projects in developing nations are at a decided disadvantage due to the lack of an effective export credit/foreign assistance facility. Due to the substantial trade benefits associated with these projects, both in terms of initial procurement as well as the follow-on spare parts market they create, the following proposal is offered for consideration.

#### Eximbank/AID Co-Financing Facility for Feasibility Studies

A U.S. contractor pursuing a project in a developing country would approach the Ministry of Planning and map out the basis of the project and reach an agreement on the preparation of a feasibility study. The contractor and the client would then apply for financing under the proposed facility, which

would involve a short-term Eximbank credit at the official rate, to be repaid by a grant-in-aid funding from AID. The Bank would, in effect, be extending fully guaranteed short-term credit to the client for the feasibility study and thereby experience limited budgetary impact; AID would be supporting the foreign entity with a grant to repay the foreign exchange costs of the feasibility study. The feasibility preparation would involve, to the greatest extent possible, the participation and training of the client country nationals and would, therefore, be consistent with AID's BHN criteria. The likelihood that AID's participation in the feasibility would eventually lead to a major capital project with probable U.S. participation might necessitate the channeling of the AID funding through the Security Supporting Assistance program, due to its aforementioned construction emphasis. The SSA monies would be drawn from a ready fund approximating an appropriate percentage of the SSA annual budget (1-2%; SSA authorizations for FY 1980 are approximately \$2 billion). During the preparation of the feasibility study, alternative sources for project finance would be identified, making possible use of existing Bank programs, the private capital markets, or, if the project warranted, future SSA authorizations.

The project would then be put out to competitive bidding or negotiations and would be tied to U.S. procurement to ensure the desired trade effect.

APPENDIX 2

## International Construction Division

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA  
1957 E Street, N.W. Washington, D.C. 20006 (202) 393-2040

### POLITICAL RISK INSURANCE FOR OVERSEAS CONSTRUCTION CONTRACTS

The volume of work performed abroad by the U.S. construction industry, which very materially improves our presently unfavorable balance of trade, could not be obtained if it were not for the political risk insurance which, in the past, has been provided by the Overseas Private Investment Corporation. Furthermore, this volume could be increased if the political risk insurance program is improved.

AGC does not favor one agency over another to provide political risk insurance for overseas construction contractors, even though our five year experience with the program under the Overseas Private Investment Corporation was viewed favorably by the industry. However, the country per capita income and company sales volume policy limitations adopted by the OPIC Board of Directors in September, 1977 drastically reduced the availability of the program in several key construction markets, and thus materially reduced its value. Recognizing the incompatibility of OPIC's developmental objectives with the export assistance requirements of international contractors, AGC recommended to the Congress on March 16, 1978, during the consideration of the U.S. Export-Import Bank legislation, that the program be transferred to the Export-Import Bank.

Following AGC's testimony, the report of the Committee on Banking, Finance and Urban Affairs included a recommendation for the development of a Construction Services Insurance Program at the Bank. During the process which led up to the actual transfer of the program on July 1, 1978, AGC contractors participated in a series of meetings with Eximbank staff concerning the program and its composition. On April 25th, AGC provided the members of the National Advisory Council (NAC) with a memorandum outlining the nature of construction exports and the specific areas of exposure in a typical construction contract.

On June 9th, the Board of Directors of the Export-Import Bank were presented with a final program proposal, and it was unanimously adopted.

Since the adoption of the program by the Export-Import Bank, approximately 30 project registrations have been filed. However, due to the low awards ratio for U.S. contractors overseas, only a small number of policies have been issued to date. The low award ratios reflect the overall noncompetitiveness of the U.S. construction industry in the international markets, and do not relate to the program or to the Bank's administration of it. However, there are several features of the program as presently administered which do not further the export promotional intent of the Congress, nor adequately address the needs of the U.S. construction industry.



The requirement by the Bank for an investment guarantee bilateral agreement between the U.S. government and the foreign government in advance of issuing coverage for a project has limited the availability of the program in several major markets. The program proposal approved by the Board of the Export-Import Bank called for the following policy with respect to the bilateral agreement eligibility requirement:

- (1) Eximbank should utilize the OPIC bilaterals to the extent that they are available.
- (2) Otherwise, Eximbank should obtain satisfactory evidence that the host government has approved the project and that Eximbank would be recognized as succeeding to the rights of the guaranteed U.S. firm in the event of the payment of a claim by Eximbank.

From everything we can gather about the Bank's administration of the program to date, the emphasis has been placed on the first recommendation, and they have effectively adopted the OPIC country list. Consequently, the country expansion of the program of the Bank has not occurred. The Bank's counterparts in the countries of Europe are offering similar coverages to their respective construction industries on an unlimited country basis, and they are doing so without the benefit of rights of subrogation or arbitration agreements.

Therefore, we recommend that the Bank be directed to expand the availability of the coverage in a manner more responsive to the competitive needs of the U.S. construction industry.

07/25/79

APPENDIX 3

## International Construction Division

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA  
1967 E Street, N.W. Washington, D.C. 20006 (202) 393-2040

MEMORANDUM

June 20, 1979

**TO:** Members of the Bilateral Subcommittee of the Development Coordination Committee

**FROM:** George E. Stockton, Director of International Construction *GES*

**SUBJECT:** Code 941 Competition in the U.S. AID Program

The Associated General Contractors of America and its 113 chapters nationwide is comprised of approximately 30,000 firms, including more than 8,000 of the nation's leading general contracting companies that perform more than \$100 billion of construction annually. AGC members also perform approximately 50% of the contract construction by American firms in more than 100 other countries.

AGC members have long recognized and actively supported the vital role carried out by the Agency for International Development (AID) in assisting the poorer nations of the world in their respective development programs. Over the last several years, AID-financed construction projects have contributed substantially to the demand for U.S. construction services abroad, and U.S. contractors have accomplished a highly satisfactory performance record within the AID program.

It is our belief that such direct bilateral assistance is a far more effective means of implementing U.S. foreign assistance policy than is the multilateral alternative. Bilateral assistance ensures a greater degree of control over the end use of foreign assistance appropriations and tends to minimize the negative impact on our trade accounts from the outflow of capital through the tying of procurement to U.S. source and origin. The economic returns accruing from the U.S. AID program should not be discounted, particularly in light of the present environment of budgetary austerity.

On the issue of non-U.S. bidding eligibility on U.S. Government-financed construction projects abroad, AGC has adopted the following policy:

"AGC believes that all construction and engineering projects in foreign countries, financed in whole or in part by any agency of the U.S. Government, be limited to bona fide host country construction and engineering firms or bona fide U.S. construction or engineering firms or a combination thereof."

With respect to Code 941 procurement policy, we recognize and acknowledge the greater developmental considerations supporting the principle of untying; however, we object to the policy for the following reasons:

- (1) Inequitable distribution of benefits among Code 941 nations;
- (2) Unfair nature of Code 941 ADC competition; and
- (3) Discriminatory impact on U.S. small business.

In the following consideration of Code 941 procurement, we have confined our comments to the effects of the policy on the U.S. construction industry. We have done so because competition in the construction program differs materially from that in the AID programs devoted to the procurement of commodities or food. Unlike the international commodity and food markets, which are relatively open, competition in increasing sectors of the global construction market is becoming closed due to the introduction of export subsidies and non-tariff barriers by principle trading nations, including several Code 941 advanced developing countries (ADC's). Therefore, as we intend to illustrate, Code 941 procurement policy creates competitive distortions which uniquely and disproportionately impact the U.S. construction industry.

#### I. INEQUITABLE DISTRIBUTION OF BENEFITS AMONG CODE 941 NATIONS

We understand that Code 941 procurement policy was developed during the early 1970's, and reflected the Nixon Administration's belief that the untying of AID procurement to qualified Code 941 countries would accomplish a more equitable distribution of benefits of U.S. foreign assistance. There is evidence that the various benefits intended to accrue to the Code 941 nations through the untying of AID-financed construction projects, such as training, capital formation and eventual self-sufficiency, are not being shared equally among eligible nations. In fact, an analysis of Code 941 participation in the AID construction program indicates that the policy has accomplished little more than a skewing of the benefits to a very small number of ADC nations. Since 1973, five major contract awards totaling \$66.3 million have gone to Korean contractors; and Korea, India and Taiwan have also been major suppliers of equipment and material -- current estimates of these sales are put at \$25 million per year (for breakdown, see Appendix A).

While the success of the Koreans in the AID program might appear substantial, it is insignificant when compared to their overall accomplishments in the global development markets, particularly in the OPEC nations. In 1978, Korean overseas contract volume topped \$6 billion, and projections for 1979 are in excess of \$10 billion. Several other Asian ADC nations, including Taiwan, the Philippines and Thailand, are also following the Korean overseas construction model (see Appendix B). The \$10 billion projection for Korea, which is almost three times the total AID outlays for FY 1980, suggests that they are no longer in need of the U.S. tax-supported AID construction program.

It has been suggested that continued Korean participation in the AID program is necessary due to a waning interest on the part of the U.S. and other Code 941 contractors. We submit that this waning interest comes about as a direct result of Korean bidding eligibility. For many of the reasons identified in section 2

of this paper, both the U.S. and Code 941 contractors have learned that competing against a Korean firm is not worth the cost of bid preparation. This dominance of the AID program by the Koreans reflects a level of capability which dramatically exceeds the Code 941 norm. The guaranteed effect of continued Korean eligibility will be the denial of opportunity to a more deserving category of nations.

This widening gulf of opportunity between the ADC and LDC nations was a recurring theme during the fifth meeting of the United Nations' Conference on Trade and Development (UNCTAD V) which recently concluded in Manila. The division and frustration which characterized the proceedings prompted a member of the U.S. delegation to comment: "The advanced developing nations sooner or later must recognize that less preferential treatment for them would mean more benefits could be passed on to the least developed countries." (See Appendix C).

Recommendation - We submit that a reevaluation of the eligibility of certain ADC Code 941 nations is tantamount to the meaningful implementation of the AID program, not only from the standpoint of U.S. participation, but also for truly qualified Code 941 countries as well.

## II. UNFAIR NATURE OF CODE 941 ADC COMPETITION

The aforementioned success of the Koreans and other developing Asian nations has not come about without vigorous levels of support from their respective governments. These supports vary from country to country, but typically take the form of lenient tax treatments, outright financial subsidies, government control of competition, recruitment and training of labor, and restriction of labor supply (see Appendix B). The Korean example is the most visible and by far the most effective of the subsidy programs, and we will therefore confine our comments in this section to Korea.

In the aftermath of the 1973 oil embargo, the Korean government became committed to a program of export expansion to meet the rising cost of energy. The most efficient formula was soon identified to be the export of construction and engineering services to the OPEC development markets. While serving a brief apprenticeship as labor and trade subcontractors to U.S. and European contractors in the region, the Koreans proved to be a quick study in the categories of building construction and civil works. Subsequent joint ventures with Western contractors eventually led the way to prime and turnkey contracts for several emerging companies. It was at this point that evidence of government support and outright control emerged. During this period, the Korean construction industry was undercapitalized and under traditional competitive procedures would have found it impossible to post the large bank guarantees (on-demand letters of credit) required for bid, performance and advance payment bonds on jumbo Mideast contract tendered during 1975 to 1978. However, the Korean exchange bank interceded on the behalf and posted unconditional counter guarantees to Western bank-led syndicates providing bank guarantees for Korean contractors. (A list of these major syndicate guarantees is attached, as well as a telex from Citibank, Seoul confirming the counter guarantee mechanism on one of the syndicates - see Appendix D).

Further evidence of government control over its contractors became increasingly apparent, particularly in the area of export permits. As a particular project would near the tender stage, contractors in the region would often enter into joint venture relationships with foreign counterparts in order to minimize the risks associated with the project. In several documented cases, U.S. contractors had entered into joint venture agreements with Korean contractors. However, they soon found that their partner was no longer interested in pursuing the work after another Korean contractor became prequalified to bid the same project as a single entity. When pressed on the issue, the former partners revealed that their government had denied them a permit needed to secure the necessary bank guarantees required to bid the particular job.

In a meeting between a Korean construction delegation and the AGC, held in Washington on October 23, 1978, the AGC officially protested this practice on the grounds that it was anti-competitive. Mr. Park Sung Bak, Director of the Overseas Cooperation Bureau of the Korean Ministry of Construction, responded to the protest by stating that the Government of Korea felt that such restrictive procedures were necessary in order to avoid "ruinous competition between Korean firms." (See Appendix E). During the same meeting, AGC questioned Mr. Park about the government's restriction of the use of Korean labor to Korean firms. This practice was also confirmed and defended as being necessary to avoid labor shortages at home. This involvement on the part of the government is augmented with several other programs designed to improve a Korean contractor's export competitiveness, such as a 50% corporate tax exemption, a total income exclusion for expatriate workers, and a five-year tax holiday on exported construction materials. The government is also involved in the recruitment and training of overseas construction labor, and has reportedly converted several military bases into training centers. Korean Army regulars are also offered early discharges if they sign up for overseas construction projects (see Appendix F).

There is also evidence that the Korean government supports bid collusion among certain segments of its construction industry. Under what is reported to be direct government supervision, approximately 30 Korean contractors have formed the Korean Overseas Construction Corporation (KOCC). KOCC's formula for success (present contract volume in excess of \$1 billion) involves the collective pursuit of work, including a central bidding office which farms out various portions of a project to individual members of the association upon receiving an award. KOCC in turn charges a fee of 1% of the net profits for its services.

The effect of these procedures has been the dramatic ascension of the Korean construction industry from obscurity to global leadership in the short span of six years. Competing against the Koreans on certain categories of work has become futile; and on many recent projects, the competitive field has been comprised entirely of Koreans (as was the case on the AID-financed Jordan Valley Projects). There are also reports from the field that the Koreans are now raising their prices after gaining large segments of the market, suggesting that earlier projects may have been dumped. We are presently gathering data on project awards spanning the 1975-78 period to determine if there exists hard evidence of dumping trends or patterns.

**Recommendation** - We submit that the subsidization of Code 941 source contractors by their governments is inconsistent with free and fair competition in the AID construction program, and we recommend that AID terminate the procurement eligibility of any nation found to be engaging in such practices.

### III. DISCRIMINATORY IMPACT ON U.S. SMALL BUSINESS

As the Administration continues to examine ways to improve our trade performance, considerable discussion has centered on the necessity of increasing the involvement of U.S. small business in the export markets. Procurement under the AID program constitutes an ideal entry vehicle for smaller firms in that the tied nature of the program serves to insulate these companies from the highly competitive field of international bidders. Upon penetrating a given market through AID-financed work, U.S. exporters may then, at a much lower operating cost, explore additional regional opportunities. However, if the presence of government-subsidized competition in the AID program persists, there will be limited or no opportunity afforded U.S. small business.

This commercial perspective of the AID program would recognizably lack support in the purely developmental context; however, the consistent and increasing use of mixed credits on the part of the principal trading nations of the world lends credence to this argument. U.S. exporters are facing bidding situations where foreign counterparts are providing export financing which includes varying percentages of grand-in-aid or highly concessional interest rates. Eximbank is not empowered, in any effective sense, to respond to such mixed credit competition, and therefore; measures should be taken to ensure a substantial U.S. trade effect in our existing foreign assistance programs.

Recommendation - To better serve the interests of the U.S. small business community, AID should reevaluate the eligibility of subsidized ADC nations and endeavor to substantially increase its efforts in publicizing upcoming tenders, working in closer liaison with the export promotional offices of the U.S. Department of Commerce and the Small Business Administration.

Attachments  
GES/cec

APPENDIX ANEAR EAST BUREAU

Contracts by Code 941 firms (Korean only)

<u>Firm</u>	<u>Project</u>	<u>Loan</u>
<u>Jordan</u>		
1. Shin Seung (Korean)	Jordan Valley Village Development (Buildings)	\$14 mil.
2. Cho Suk (Korean)	East Chor Canal	\$10 mil.
3. Cho Suk (Korean)	Zarqa Triangle Irrigation	\$ 4.5 mil.

ASIAN BUREAU

Contracts by Code 941 firms (Korean only)

<u>Indonesia</u>		<u>Contract Amt.</u>
1. Hun Dai (Korean)	Djakarta-Bogar Road	\$33.2 mil.
<u>Bangladesh</u>		
1. KDC (Korean)	Ashuganj Fertilizer	\$ 4.6 mil.

NOTE: Vinnell (U.S.) bid against KDC on this contract and lost.

Korea, Taiwan and India have been major suppliers of equipment and materials on AID funded work through Code 941 eligibility. Current estimates of annual Code 941 sales are put at \$25 million per year.

## APPENDIX B

## invasion of the Middle East

A formidable new competitive force has put a whole new look on international construction in the past few years.

International construction has become a significant source of income, a balance-of-payments factor, for oil-buying countries around the world. For some developing countries the use of construction to recapture petro-dollars has become a matter of national policy.

American, European and Canadian companies, which once dominated third-world construction, have had Japan to compete with since its first forays into foreign reparations projects following World War II.

Now, the U.S., Europe and Japan have to compete with Mideast companies working beyond their national borders, with occasional Russian, Yugoslavian and other eastern bloc venturers abroad, and most recently with the entry of Brazilians into big-league overseas contracting.

But the toughest new contenders in the fight for construction contracts in the Mideast, where most of the new business concentrates, are from Asian countries—developing Asian countries.

Their impact on international construction is strikingly apparent but difficult to quantify, for it is constantly changing, and it varies, country to country.

In an effort to size up the situation as it appears today, ENR visited the Asian countries from which the large and growing competition comes.

## Japan

Population: 113 million  
Gross Domestic Product: \$553 billion  
Per Capita Income: \$4,960

It is useful to look first at Japan. Asia's most highly industrialized nation, it has been building abroad 25 years.

A decade ago, Japan's giant firms—its Big Five—were variously involved abroad and ready for a bigger push (ENR 12/11/69 p. 36).

Their work then concentrated in Southeast Asia. Taisei Construction Co. alone among the Big Five had a Mideast office—in Lebanon.

Today there are 60 members of the Overseas Construction Association of Japan, Inc. (OCAJI). A list published this year of their overseas contracts totals 46 major jobs—almost half of them in Southeast Asia, with large concentrations in Malaysia and Singapore. But there is a shift—certainly in the dollar volume of work—toward the Mideast.

Takeo Atsumi, president of OCAJI (and chairman of Kajima Corp.), says association members' pre-1974 foreign volume doubled in worth by 1975 with the oil price rise. Growth has been constant ever since. By 1976, the dollar volume of Japanese contracts in the Mideast outstripped the volume in Southeast Asia.

According to Atsumi, by 1977 Japanese contractors were doing about \$3.9 billion overseas, 49% of it in the Mideast, 36% in Southeast Asia.

In the Mideast, Iran accounted for 34 Japanese contracts valued at a total \$235.9 million; Iraq, 20 contracts totaling \$202.3 million; Kuwait, six jobs worth \$56.5 million; Qatar, 11 worth \$26.3 million; the United Arab Emirates, five worth \$51.3 million; Egypt, nine worth \$127.8 million; and Saudi Arabia, 16 worth \$189.6 million.

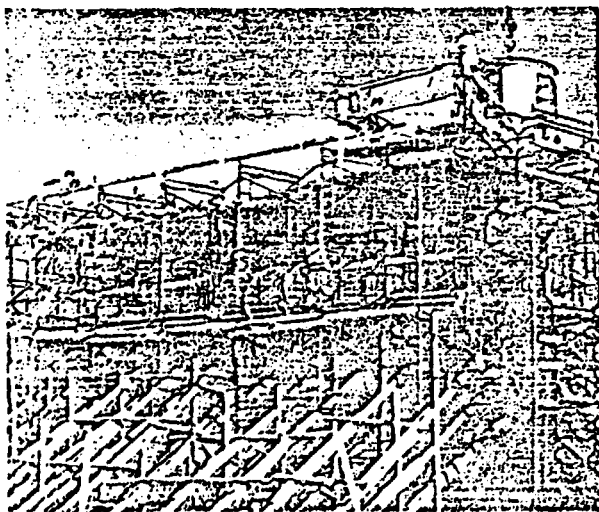
Limits on growth. The Japanese, with their \$1.9-billion total of work in the Mideast were not highest among the world's leading competitors there in 1977. In fact, they are running a poor second to their neighbors across the Sea of Japan, the Koreans. "The Mideast is a difficult market for the Japanese," says Atsumi.

They suffer language problems overseas; relatively few of them use a second language well. They also suffer the same high labor costs that impact Americans and Europeans, making it uneconomical to take many workers abroad.

Unable to compete with the cheaper labor contractors, they've seen their steady early growth of Mideast business slowed. They look to future high-technology projects as the best place to compete. Atsumi cites as an example Japan's great strength in seismic design—and Iran's earthquake problems.

Taisei Corp., long a leader among Japanese builders abroad, has 10% of its current backlog in overseas work, almost \$500 million worth. But according to Taisei president Hideo Sogawa, their work has concentrated in such relatively high-technology projects as a powerplant in Iraq and a steel mill in Qatar for Japan's Kobe Steel. (On the steel mill Taisei subcontracted to Koreans.)

Construction, recently as much as 20% of Japan's GNP, has suffered domestically along with the rest of the economy. Big construction companies, seeing their profits squeezed by a low rate of capital investment, look to the government to



They do quality work and look to joint venture on the more sophisticated projects.



## ... competitors from developing countries

trigger the economy with its 1978 boom of 30% in public works spending.

They also keep looking abroad—and at “the remarkable progress” of the Koreans. For a while, when Korean labor rates were 40% of theirs, they looked for Koreans as subcontractors. But now, says Taisei's Sugawara, Korea's rates are up to 70% of Japan's; and the Koreans are precluded by their government from subcontracting where they can compete as prime contractors instead.

Next April 21-22 (tentatively) OCAJ will host in Tokyo a third annual meeting with the Overseas Contractors Association of Korea. OCAJ president Atsumi says the two groups have been close and have enjoyed “a great deal of cooperation.”

But the pronouncement out of last year's meeting that Japan's high technology would be joined with Korea's skilled manpower apparently hasn't amounted to much. The Korean will meet again with the Japanese, but they also traveled abroad last month to meet with Canadians and Americans, whose management skills as well as technology they appear to prefer as more marketable.

For the purpose of this survey of international construction's Asian competition, therefore, it is logical to look first at Japan, as the oldest in the field, the most highly industrialized. But Japan is not the leader. Korea is.

### Korea

Population: 35.9 million  
Gross Domestic Product: \$25.3 billion  
Per Capita Income: \$496

The Koreans pictured on ENR's cover this week are learning to be welders. They are paid by Hyundai Construction Co., Ltd., to learn welding and another related trade by going to school six hours a day for three months. It's only six hours a day because the school runs two shifts.

After three months of schooling, these workers learn on the job in Korea for three more months. Then, they are ready to be sent to the Mideast, where many observers rate the quality of Korean construction as the best.

Hyundai training schools presently have over 1,500 students enrolled and will turn out about 5,000 in a year. And Hyundai, Korea's largest constructor, is but one of dozens of companies working overseas required by government decree to train at least some of the manpower needed to staff their overseas work.

By the end of this year there will be 70,000 to 80,000 Korean workers

abroad—all but about 5,000 of them in the Mideast and almost all of them in construction. (See “The Koreans are coming” ENR 5/31/77 p. 16).

With skilled, hardworking manpower its stock in trade, Korea's construction industry captured \$3.5 billion in overseas contracts in 1977, set \$4 billion as its target for '78, and passed the \$6-billion mark at midyear. The 1979 goal is \$10 billion.

This means that in five fast and furious years of competing abroad Korea is now well ahead of Japan. And its \$3.5 billion in foreign contracts in 1977—virtually all Mideast—compared impressively with \$6.1 billion worth won by U.S. contractors in the Mideast that year.

Korea may be the only nation in history to have a construction industry with 70% of its volume overseas—this despite a domestic construction boom that's keeping pace with an economy with growth estimated at 14% this year.

Government support. A Ministry of Construction watches over it all, policing and promoting. Construction exports have become an integral part of Korea's economic development, its balance of payments and therefore its foreign policy. Mideast construction alone more than covers the cost of oil imports. And, increasingly, constructors are venturing into lands where Korea lacks but wants diplomatic relations.

Korea's exports next year will total about \$20 billion and half of that will be construction.

Apart from their work in South Vietnam in the '60s, it all started abroad for Koreans in 1973 when Sam Whan Corp. won a \$24-million piece of road work between Jeddah and Khamsi Mushayt, a job that wound up costing \$30 million and probably cost the Koreans money.

In those days, according to one Saudi hand, “the Koreans bailed out the Corps of Engineers” by bidding near if not under its estimates, when Americans and others were bidding well above.

Try to get Americans into the picture, the Corps at the time encouraged joint ventures, and Sam Whan found De Matteis Construction Co., New York City, for the \$206-million National Guard headquarters buildings at Riyadh.

Koreans have been taking hundred-million-dollar jobs ever since—most of them lately as prime contractors.

Sensing now that much of Saudi's civil works program is done and seeing much more architectural and sophisticated in-

terial work ahead, Koreans are now actively seeking American joint ventures in the Mideast (while being wooed to joint venture with Canadians anywhere in the world).

Organized effort. Korean Overseas Contractors Association (KOCA) executive vice president J. D. Chung lists 122 companies licensed by the government to work overseas under an Overseas Construction Promotion Law. Eighty-five are construction contractors and 80 of those actually have work abroad; six are consulting engineers; eight are in electrical-telecommunications areas.

KOCA recommends contractors for overseas licenses and then the Ministry of Construction has a hand in deciding who qualifies for a specific project abroad. All who are licensed are capitalized to at least \$20 million. KOCA categorizes them as to their financial capability, then, just as contractors anywhere, they must qualify for and buy bid and performance bonds.

The big difference is that it's a government bank whose guarantee is needed. The government therefore can control who bids any given job, can prevent more than one Korean firm from competing for a given job, and can prevent subcontracting or joint venturing where it would rather see a Korean as prime contractor. Bank guarantees, once granted, are as good as the credit of the government.

With this kind of backing, Hyundai, the giant conglomerate of which construction is the largest part, went from No. 278 to No. 98 last year with the biggest growth of any on FORTUNE magazine's ranking of non-U.S. corporations.

Miryung Construction Co. has boomed from its beginnings as a bus company with a small construction arm.

Samsung Co., another huge manufacturing conglomerate, is only now building and flexing its construction muscle, having acquired Shinwon Construction and Development Co. Ltd., last July.

The biggest, in order, after Hyundai include Dong Ah Construction Co., Daehlim Industrial Co., Sam Whan, and Chin Hung International.

Ganging up. And when no one of these companies is big enough to take the risk, Korean Overseas Construction Corp. (KOCC) can move in. This is a private corporation formed by 36 top Korean contractors. When KOCC bids and wins a contract (it has won over \$1 billion worth since 1975), it assigns or subcontracts the work to one of its member companies and takes 1% of the proceeds from the job. This money covers costs of bidding other jobs and prospecting for work in more risky areas, such as Iraq or Nigeria.

The only apparent brake on Korean construction juggernaut is its ultimate limit on manpower—particularly engineers and managers. Construction labor is already approaching short supply, and the government restricts its use abroad to Korean companies.

One industry source in Seoul told ENR that Korea can't possibly double its overseas work, as projected, without spreading its managers too thin. Thus the interest in joint venturing with Americans or others who will help them develop managers.

Over 30 colleges in Korea teach engineering and they are now jammed with students (42 students per professor, compared to 10 to 1 in the U.S.), all looking to earn big money abroad. By one estimate there are 40,000 graduate engineers, but too many of them are too new and inexperienced for overseas duty.

To help fill the need for managers and highly trained executives, Chung-Ang University in Seoul has already put 680 men from 60 companies through an overseas construction managers program—a 200-hour after-work course (CPM, specifications, legal, shipping, Arabic)—flunking out another 150. Top executives get a 30-hour course, concentrated into one Friday-to-Monday weekend.

As KOC's Chung says, summing it up: "We have entrepreneurial spirit, good labor, high productivity and government support."

Still in a state of war, South Koreans are a serious people. They smile a lot, but they mean business.

## Taiwan

Population: 16.1 million  
Gross Domestic Product: \$17.3 billion  
Per Capita Income: \$800

Stephen D. Bechtel, Sr., in Seoul on his company's business earlier this fall, told ENR: "These people [the Koreans] and the Taiwanese are the hardest working people in the world." He was referring principally to domestic construction in the two countries, but the description applies as well to their work abroad.

Americans in the Mideast rate Taiwanese close to the Koreans in productivity and quality of work; Koreans rate the Taiwanese as major competitors.

The principal Taiwanese competitor company is Ret-Ser Engineering Agency (RSEA). Ret-Ser means Retired Servicemen; and RSEA, formed 22 years ago by the government to provide training and jobs for veterans, still has over 7,000 armed forces veterans among its 12,400 employees. About 1,600 are engineers.

Half of RSEA's work currently is overseas, and most of that is in Saudi Arabia. Starting there with feeder roads and moving into highways, airports and onshore and offshore naval facilities, the company has contracted for \$620 million worth of projects over the past three years, the largest of them in the \$200-million range.

The company has an office and two highway projects in Jordan, and its president, H. C. Yen, looks toward working in more places, including the United Arab Emirates.

Second in size among Taiwan's contractors abroad is T'S Engineering Corp., which won its first Saudi Arabian job—Jeddah sewers—in late 1975. By 1976 it was bidding and winning jobs in the \$40-million to \$50-million range.

RES has succeeded in contracting to build industrial parks designed for Saudi cities by Sinotech Engineering Consultants, also of Taiwan.

Taiwan Power Co. has the \$153-million contract on a regional electrification project—a job on which the Saudis rejected high European and Japanese bids.

New Asia Construction & Development Corp., among the leaders in domestic construction in Taiwan, has a Jeddah office and a job to build an office building there for the Saudi contractor REDEC. Earlier it set up a prestressed concrete plant in Jeddah for RSEA.

Taiwan is a relatively high technology Asian country with engineers and contractors experienced in industrial plants, nuclear facilities and refineries, as well as heavy, civil works construction.

As a nation, however, Taiwan is limited in the number of countries with which it has diplomatic relations.

## Philippines

Population: 43.8 million  
Gross Domestic Product: \$12.5 billion  
Per Capita Income: \$325

Filipino contractors are running to catch up with the Koreans. But by their own estimate they are at least two years behind. They lack the organizational unity and government support one sees in Seoul.

There are a few large Filipino contractors and some smaller ones now in the Mideast, but they are still at the stage of working as subcontractors. Construction & Development Corp. of the Philippines (CDCP) is Southeast Asia's biggest contractor and is into Saudi Arabia on two projects for more than \$200 million. But on one it is subcontractor to M&N&C and

the other to Bin Ladin, both big Saudi contractors.

The Philippine government has taken steps to position its contractors more competitively. In moves apparently patterned on Korean success, President Ferdinand E. Marcos in June, 1977, set forth regulations to stimulate an "aggressive" overseas effort, to fix tax credits and incentives, to control which contractors work abroad, and to "avoid ruinous competition between [Filipino] contractors engaged in overseas construction." An Overseas Construction Board (OCB) was established in the President's office.

But contractors say their government's help stops short. A Philippine Foreign Loan Guarantee Corp. backs commercial bank guarantees up to 70% in a form of reinsurance. "Why not 100%?" says a Manila contractor. "That 30% could break your back."

Two years ago, 23 companies joined into the Filipino Contractors International Corp. (FCIC) in an effort to emulate Korea's KOC. FCIC is supposed to designate which among its members will undertake a given job. It was to restrain competition, but it doesn't, according to sources in Manila.

Of 37 contractors certified by the Philippine Contractors Association to work abroad and registered with OCB, 11 have jobs overseas, mostly subcontracts.

Export strategy. A government that long had an aggressive "people export" policy tries now to push a "corporate export strategy," looking to add overhead and materials exports to the receipts of foreign exchange from workers' remittances. The goal for this year is over one-half-billion dollars.

An Overseas Employment Development Board (OEDB) formed in 1974 promotes the "people export" program—people are the Philippines' fifth largest export. There are 1.5 million Filipinos working in 102 countries today from seafarers and domestic workers to nurses and doctors.

In the Mideast alone there are about 60,000. Over half of those are in Saudi Arabia, where they are mostly doing construction or stevedoring.

Against a vigorous past program of encouraging the foreign hire of individual workers, it has been difficult for Filipino contractors to hold onto their good workers. They have been reluctant to run programs to train new workers, as one contractor put it, "for Jones, Sundt, Brown & Root, Bechtel or some Korean."

Now, only contractors registered with the Bureau of Employment Services may

## ... companies with government support

deploy construction workers overseas, and the Ministry of Labor can keep passports from workers not employed by registered Filipino firms. So, the happy hunting grounds foreigners had for skilled, English-speaking workers (and even Moslems from Mindanao to work in Mecca) is closing down. Americans and others needing workers in the Mideast had better come to Manila now looking for a partner, joint-venturer or subcontractor. (So far, the recruiting restrictions apply only to the Mideast.)

PCO executive vice president Gregorio R. Vigilante says, "We can't compete with the Americans [for our own workers] unless we ourselves go overseas." He looks long range at all the operation and maintenance work to be contracted in the Mideast as construction tapers off.

Vigilante says that on a scale of 10, giving Koreans 10 and Taiwanese nine points as the top two Asian contractors in the Mideast, Filipinos rate seven points and can improve to eight points because of their knowledge of English.

Somewhere lower on his scale are the contractors from India and Pakistan.

### India

Population: 629 million  
Gross Domestic Product: \$87.8 billion  
Per Capita Income: \$143

Harcharan Singh Dugal, four-term president of the Builders Association of India (BAI) and second generation leader of his private contracting company in New Delhi, speaks articulately of the strengths and weaknesses of Indian contractors in the Mideast:

"India enjoys good will in the Gulf, partly for supporting displaced Palestinians. . . . The Gulf States were once administered from Bombay. India has traditional, historical and proximity ties. . . . India can export 1.5 million trained technicians without hurting its home economy. Engineers come at one-quarter to one-third the cost of U.S. or European engineers. . . . India can supply hardware, steel, plywood, tiles, plumbing."

On the minus side, Dugal says Indian construction "still has no successful foreign competitors, except for special items. . . . Emphasis is still on labor intensive construction. . . . Time is limited if we are to cash in on the Mideast market."

Almost three years ago Dugal's BAI (India's version of the Associated General Contractors) organized an Overseas Construction Council (OCC), headquartered in

Bombay. OCC lists general contractors and subcontractors approved for contracts abroad. About 30 of them have contracts, according to Dugal. The total value of work they do in the Mideast currently is reported at \$125 million. Much of it is in Iraq. (Beyond the Mideast, Indians do an interesting amount of work in Libya.)

State-run companies, Constricting—as other industries in India—has public companies as well as private. The state-run companies have a definite edge in competition, for as a spokesman for one organization told ENR: "We can bid 0.1% for profit."

Large contracts won by public companies are sometimes divided and subcontracted to private companies.

A given public company, such as Engineering Projects (India) Ltd., may be a combine of manufacturing and construction units.

Industrialized as it is, India has construction experience in steel plants, atomic facilities, refineries, chemical and fertilizer plants and waterfront work. Those companies, such as Products & Equipment Corp. and National Projects Construction Corp., lay heavy stress on their ability to do turnkey work on industrial plants. They stress their technology and want to supply their manufactured products more than their manpower.

Still, other companies continue to seek jobs that are labor intensive to which they can bring relatively cheap labor.

A recent government enforcement of a year-old decree increasing what Indian workers must earn abroad is being contested by Indian contractors as diminishing their main competitive edge. Doubling past rates, the new wages would put Indians' pay above Koreans', according to the contractors protesting the move.

Indian manpower goes abroad in huge numbers whether or not Indian construction contractors succeed. Remittances from 3 million Indians abroad are a big factor in improved balance of payments.

Contractor Dugal in New Delhi sums it up for India's contractors: "The opportunity is large; we have the skills; but the competition is tough."

### Pakistan

Population: 72.4 million  
Gross Domestic Product: \$11.5 billion  
Per Capita Income: \$149

For construction in Pakistan, overseas means the Mideast, but it is still mostly individual workers, and not so much construction contractors, that go abroad.

One five-year-old public company, National Construction Co. (Pakistan) Ltd. (NCC), bases its overseas operations in Abu Dhabi, where it has done major work. Its biggest claim to fame is its \$166.7-million joint venture contract with George A. Fuller Co., New York City, on the Peace Hawk project of the Royal Saudi Air Force.

Another public company, Mechanized Construction of Pakistan, has had projects including about \$100 million in irrigation projects in Iraq.

Two other Pakistani companies working abroad—Gannan Pakistan Ltd. and Conforce Ltd.—round out the list. In total, Pakistanis claim over \$300 million in contracts.

So, Pakistan, with a large population that includes skilled construction workers as well as engineers, is trying with some success to compete for construction business. It is, more significantly, a big source of West Asian workers for the Mideast, Moslems eager to visit their holy cities in Saudi Arabia, and to earn that big overseas pay.

### Thailand

Population: 43 million  
Gross Domestic Product: \$15.9 billion  
Per Capita Income: \$318

This Asian country is supplying good construction workers, but has not yet won any construction contracts. However, it shouldn't be long before it does.

The planes heading west out of Bangkok can be as full of uniformed construction workers as those from Manila, Taipei or Seoul. The Thai government estimates there are already 40,000 Thais in the Mideast, and they are mostly in construction. Industry sources say over 1,000 workers fly westward each month, many who have been recruited by U.S. companies.

Last month, following many months of discussion, members of the Thai Contractors Association incorporated a \$5-million combine organized to undertake \$50 million worth of work and sent a delegation to the Mideast to look for jobs to bid.

Thailand has the same strength in construction as the Philippines and Korea, thanks to the presence of the American military in years past.

To a significant extent, therefore, out of Asia to compete in the Mideast come a number of construction organizations, as well as individual workers, that were given their start by Americans.

They're a new power to be reckoned with in international construction.

## APPENDIX C

## Economy &amp; Business

## Less Developed, More Divided

*The LDCs lower their expectations for a new economic order*

United by poverty, Third World nations have long called for a "new international economic order"—a grand transfer of wealth, resources and economic decision-making power from the industrial countries to the poorer lands. But lately, changes among Third World members have divided the once harmonious group into a company of often competing nations. The divisions were apparent in Manila at the 54th meeting of the United Nations Conference on Trade and Development (UNCTAD IV), the forum where the developing countries present their complaints to the wealthier nations. After a month of sometimes heated dialogue, the conference ended last week in division, indecision and frustration. TIME's Hong Kong Correspondent Ross H. Munro reports:

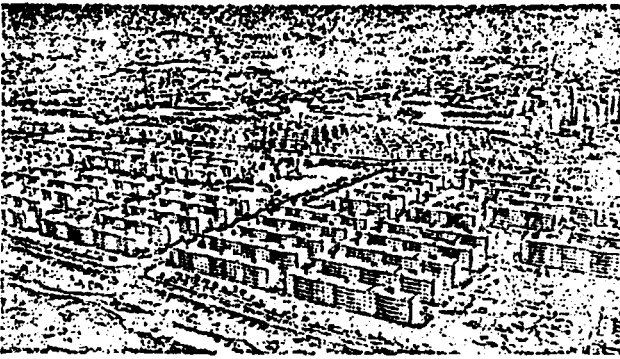
Also the growing rift between oil haven and have-nots widened further at the conference. Recent oil price increases will swell the collective current-accounts deficits of the non-OPEC LDCs this year by \$5 billion, to a total \$57 billion, and additional rises will greatly enlarge the gap. The Costa Rican delegation monitored some support from other oil-deficient Latin American countries for its proposal that OPEC consult with the importing LDCs before it raises prices again. But African and Asian delegations squelched the resolution partly out of fear that the OPEC nations might reduce their aid to any country daring to challenge them.

Since UNCTAD last met in Kenya three years ago, several Latin American governments as well as Sri Lanka, India

five developed countries: the U.S., Canada, the Soviet Union, Australia and South Africa.

Many Third World nations discovered common ground on the subject of protectionism. One speaker after another attacked the West's "new protectionism" of quotas, marketing agreements and restrictions against the developing countries' textiles, television sets and other products. An additional resolution called for the Soviet bloc to lower its more rigid protectionist barriers. Delegates from many of the LDCs said they were tiring of the Eastern European's illogical claims that they cannot be accused of protectionism because their centrally directed socialist governments simply ban unwanted goods.

The poorest nations, including Chad and Afghanistan, called for more help from the richest countries. But delegates for those industrial nations felt the advanced-developing countries must also be willing to help. Their argument was that



The skyline of prosperous Seoul, South Korea, changes almost daily as new skyscrapers rise. The rift between the Third World haves and have-nots has widened further.

The past quarter-century of uneven growth and the recent meteoric rise in oil prices have made the Third World a more disparate group of nations than ever. For many of them, the catchall appellation of less-developed countries (LDCs) has become outdated or at least incomplete. New subclassifications have become necessary: advanced-developing countries and least-developed countries; socialist LDCs and neocapitalist LDCs; non-oil LDCs and OPEC LDCs.

Such rapidly industrializing, fairly affluent and capitalistic countries as Singapore, Taiwan, South Korea and Malaysia have totally different problems and priorities from many dirt poor and authoritarian African nations. Although the LDCs presented a façade of commonality on the floor of the conference, their changing interests were obvious. Calls for a new economic order were often ignored by the advanced-developing countries,

and others have moved toward more reliance on free market economics. A resolution calling for the industrialized nations to cancel or suspend debts of the LDCs was quietly suppressed by some of the capitalistic advanced-developing countries. Although the U.S. had already written off \$300 million in debts owed by 15 of the poorest nations, LDCs like South Korea, Singapore and Brazil have feared that any further write-off would make them appear to be poor credit risks and that international lenders might push up interest rates or hold back on future loans.

There have also been second thoughts about a world commodity fund to stabilize prices by buying when prices fall and selling when they rise. Delegates of many commodity-producing LDCs argued that such a resolution would help the developed countries more than the undeveloped because some 60% of all commodities and raw materials originate in



Impoverished Ethiopian women fill water jugs

as the LDCs prospered they should not only lower their own tariffs against the least-developing nations but should also give up some of the special tariff preferences they receive from industrial countries. Said one U.S. delegate about the conference: "The advanced-developing nations sooner or later must recognize that less preferential treatment for them would mean more benefits could be passed on to the least-developed countries."

The overall mood of the conference was disappointment. Fortunately, most nations backed a resolution calling for substantially increased aid to the 30 poorest

## Economy &amp; Business

out countries; two-thirds of them are in Africa and others include Haiti, Bangladesh, Laos and Yemen. Sometimes described as Fourth World or "basket cases," they constitute still a further division among the developing nations—and a growing problem that the rest of the world will have to address. ■

## Coupon Craze

*Up in the air with half fare*

An enterprising troop of 71 travelers from Frankfort, Mich., chartered a bus to Saginaw, where they boarded a United Airlines flight for the 21-minute, \$25 puddle jump to Flint. There they were met by their bus and returned to Frankfort. One night last week, 55 travelers plunked down \$20 each for the 11:30 p.m. United flight from Akron to Cleveland, a 22-minute trip that normally draws about four paying passengers a week. The attraction was not Cleveland's glamorous night life.

These people were all rushing to get the famous half-price coupons, which entitle the traveler to a 50% discount on any United flight in the continental U.S. from July 1 through Dec. 15. Indeed, people hustling after the discount have bought out United's \$14 flights from Los Angeles to San Diego through June 17, the last day of the big giveaway. United began offering the coupons May 28 in an effort to lure back passengers it had lost during a 53-day flight mechanics strike. So on United's freebie was matched by American Airlines. By the time the promotion ends, United figures that both airlines will have passed out more than 6 million coupons.

One determined fellow booked a single-day odyssey starting in Cleveland and whipping through Youngstown, Akron, Youngstown (again), Pittsburgh and back to Cleveland to collect five coupons. Ads offering top dollar for coupons have appeared in newspapers. Coupon traders flocked to airports, and last week the going price jumped from \$5 to \$20. The Federal Government, the state of California and many corporations have insisted that employees clip coupons to their expense accounts.

United claims that total bookings rose in one day to 194,000 from the normal 135,000, but it and American may not be able to meet the increased demand. With the grounding of the DC-10, United lost 23% of its available seats and American lost 25%. So far, none of their competitors have offered similar discounts, though TWA was embarrassed when the New York Times ran an ad announcing TWA's half-fare coupons. In fact, the airline had prepared the ad only as a contingency measure. TWA quickly announced that the ad was in error because, a spokesman said humbly, half-fare coupons are "crazy and uneconomical." ■

## Executive View/Marshall Loeb

## Her Hand Is on the Future

It would not be a stretch to call her Alice in Wonderland. In the behind-the-scenes world of Washington, where many things are curiously and curiously, and even the knaves have to run faster to keep up, Alice Rivlin is the self-proclaimed "official purveyor of bad news to the Congress." As head of the Congressional Budget Office, she and her 200-person staff figure out what proposed programs will really cost, and her cool counsel has stopped many of them in the glass-in-the-eye stage.

When she got the job in 1975, Economist Rivlin, 48, an Indiana-bred Bryn Mawr magna who had labored 22 years at the left-leaning Brookings Institution and in the bureaucracy, faced two hurdles. Many in Capitol Hill's chauvinist bastion gasped that the Judy Garland look-alike would be, well, too feminist, too liberal. But she has proved that sex does not count in political economics, and her balanced judgments have made her popular even with conservatives.

As much as anybody in Washington, Rivlin has her fingers on the future. That is because they grasp the federal budget, which is the nation's road map and hope chest, the one document that brings together the Government's plans and priorities. And what she sees makes her fairly optimistic.



Budget Watcher Alice Rivlin

For one thing, the growth of regulation is waning. "We have had this orgy of regulation over the past few years," she says. "We have regulated the hell out of everything—the environment, health and safety. We have gone to absurd lengths." The Government's inflation-terrified economists are passionately battling the regulators, who Rivlin feels are a bit hysterical in defending their turf. "But," she notes, "nobody says that we want to deregulate everything. Gradually, the regulatory excesses are being sorted out."

Also, Congress is gaining much better control over rabbit-hole spending by moving toward longer planning. Says Rivlin: "The most important thing that happened with the fiscal 1980 budget is that Congress for the first time went beyond a single year's spending and voted at least tentative budget targets for three years. Now we have been pushing for five-year goals." These goals will help legislators make cuts in spending on an orderly basis with plenty of advance notice. As she says, "You really wouldn't want to live in a country where many programs are changed quickly."

Rivlin argues that spending cannot be substantially brought down until Congress is willing to tackle the legislated pensions, subsidies and other transfer payments to retired civil servants, veterans, farmers and other politically vindictive constituencies. To call these payments "uncontrollable" is, she contends, a cop-out. Congress enacted them, and Congress can change them.

Unless a health insurance plan is enacted, she feels, the fast rises in Government outlays are basically finished. "We have built almost all of the interstate highway system, and we don't need another one. Because the baby boom is finished, the pressure to increase spending on schools is mostly over. The jumps in Social Security taxes are likely to be much smaller. We are basically home free until the year 2010, when the baby-boom kids will become the elderly."

Soon the U.S. will start enjoying some benefits from the slump in the birth rate, which started 15 years ago. Says Rivlin: "In the 1980s we are going to have fewer people coming into the labor force, and so finding jobs for them will not be so difficult. The crime rate will drop. Most crimes are committed by people aged 15 to 25, and there just aren't going to be as many of them as before."

To remedy inflation, Rivlin has her own prescription: "Do everything that you can think of because there is no simple answer. At a hearing on the Hospital Cost Containment Act, one Congressman told me, 'This will cut the Consumer Price Index by only .4%, and that's not very much.' Well, it is not very much, but it is worth doing. If you are doing a lot of other things too, hospital cost containment will help, some deregulation will help, strategies to increase supplies will help." None of these measures will be easy to accomplish. But, Rivlin points out, "nobody ever said that democracy was easy. They only said that it was better than any other form of Government."

## Financing the big projects

### MAJOR PUBLICIZED SYNDICATED GUARANTEES

APPENDIX D

JUN 8 1978

Contractor	Project	Amount (million)	Lead managers	Date
Ko. eon Construction Industry	Various Middle Eastern projects (stand-by facility)	\$100 (Saudi riyal equivalent)	Citicorp International Group Bank of America NT & SA Manufacturers Hanover Trust Bankers Trust Chemical Bank DG Bank First International Bancshares	March 1976
Continental Electronics, Edok, Eter	Northern stations radio transmitting project for Saudi Arabian Ministry of Information	SR129.1	First Chicago Ltd	August 1976
Hyundai Construction Co (Korea)	Jubail Harbour Industrial Port Project, Saudi Arabia	SR750	National Commercial Bank Bank of America NT & SA	December 1976
Hyundai Construction Co (Korea)	New port at Ras Al Ghar (Saudi Arabia)	SR233.5	Citicorp International Group National Commercial Bank Westdeutsche Landesbank Girozentrale	March 1977
Consolidated Contractors (Lebanon)	Extensions to University of Petroleum & Minerals; Dhahran, & construction of water storage & distribution systems at Medina, Saudi Arabia	SR206.7	Arab Bank First Boston AG National Commercial Bank National Bank of Kuwait	September 1977
Ballast Nedam Groep (Holland)	RSAP domestic accommodation, Saudi Arabia	SR1,675	Amsterdam-Rotterdam Bank Algemene Bank Nederland Citibank NA Bank of America NT & SA	October 1977
Lockheed Corporation (United States)	Various projects in Saudi Arabia (stand-by facility)	\$50 (Saudi riyal equivalent)	Kreditbank, Luxembourg	December 1977
Sagey Int Ltd	Four desalination plants & power plant, Saline Water Conversion Corp, in Jeddah	SR376.8	Bank America International Group BCCI	December 1977
Telefonaktiebolaget L.M. Ericsson (Sweden)	Automatic telephone project, Saudi Arabia	SR945.8	Citicorp International Group Skandinaviska Enskilda Banken Svenska Handelsbanken	January 1978
N.V. Philips	Automatic telephone project, Saudi Arabia	SR908.9	Amsterdam-Rotterdam Bank Algemene Bank Nederland	January 1978
Hyundai Construction Co (Korea)	Various projects in Saudi Arabia	SR347.8	Citicorp International Group Manufacturers Hanover Asia Morgan Guaranty Trust Westdeutsche Landesbank Girozentrale	January 1978
Lockheed Corporation (United States)	Activities in Saudi Arabia	\$100	BAII Algemene Bank Nederland Banque Nationale de Paris	May 1978
Hyundai Construction Co (Korea)	Projects undertaken for government ministries and government-related agencies	\$300	Citicorp International Group BA Asia Chase Manhattan Asia Manufacturers Hanover Asia Morgan Guaranty Trust National Commercial Bank	June 1978

CITIBANK  
SEOUL, KOREA

ATTENTION: K. S. LEE  
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CITIBANK NEW YORK ADVISES THAT YOU MIGHT BE ABLE TO CONFIRM  
KOREAN GOVERNMENT GUARANTEE OF JUNE 1978 LETTER OF CREDIT  
SYNDICATION FOR HYUNDAI, INC. (AMOUNT: 300 MILLION U.S. DOLLARS)

PLEASE ADVISE AS SOON AS POSSIBLE.

REGARDS,  
GEORGE E. STOCKTON, DIRECTOR OF INTERNATIONAL CONSTRUCTION  
ASSOCIATED GENERAL CONTRACTORS OF AMERICA  
WASHINGTON, DC  
TWX 7109551134 AGC AGTN

JUNE 7, 1979

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TO ASSOCIATED GENERAL CONTRACTORS OF AMERICA WASHINGTON DC  
FM CITIBANK SEOUL  
JUN08/79

ATTN GEORGE E STOCKTON DIRECTOR OF INTL CONSTRUCTION

CITICORP INTERNATIONAL GROUP(CITIBANK AND APCO) ORGANIZED AND  
MADE A USD300 MILLION(ED IN SAUDI RIYAL)- SYNDICATED BOND  
GUARANTY FACILITIES FOR HYUNDAI CONSTRUCTION CO LTD AROUND  
JUNE 1978 X KOREA EXCHANGE BANK COUN ER GUARANTIED STOP  
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**Labor shortages may fuel inflation—**

Open shop contractors will have to increase their manpower training programs to avoid labor shortages threatened by the increasing amount of work now going open shop, warns Associated Builders and Contractors (ABC) president Joseph A. Burton. He says an ABC survey shows the manpower situation is getting tight in most parts of the country. Shortages could produce wage explosions and spur inflation, he warns.

**Performance standards delayed—**

The U.S. Department of Energy announced this week that release of the preliminary draft of energy performance standards for new buildings would again be delayed—perhaps to mid-November or later. The preliminary draft was expected this week so public review could begin. It was earlier planned for August release (ENR 1/19 p. 54). The delay was attributed to an organizational dispute within the department.

**Korean-American confrontation—**

Traveling Korean contractors, visiting at the Associated General Contractors of America (AGC) in Washington, D.C., last week, expressed interest in joint venturing with Americans abroad. They don't see themselves operating in the U.S. as previously reported (ENR 10/12 p. 3), but they wouldn't turn down any good deal. A good deal in their view is a joint venture that helps them qualify to bid a job or adds to their management and technology capability in doing the work. AGC members expressed concern about loss of a Korean joint venture partner precluded by his government from joining in competition against a Korean company bidding alone.

**Industry calls for panel to assess cancer risks—**

Industry asked environmentalists last week to support establishment of an independent panel of scientific experts to develop uniform national standards for testing, classifying and regulating cancer-causing materials. Jackson B. Browning, environmental affairs director at Union Carbide Corp., New York City, echoed the idea proposed earlier this year by the American Industrial Health Council. Both the public and government regulators need a more objective means of assessing cancer risks, he says.

**Westinghouse urged to settle uranium dispute—**

A federal judge in Richmond, Va., has given Westinghouse Electric Co., Pittsburgh, 45 days to settle out of court with seven utilities for failing to deliver on uranium supply contracts. Otherwise, the firm must pay \$2 billion in damages awarded to the utilities in March. Three utilities made out-of-court deals with Westinghouse earlier this year; one, Houston Lighting & Power Co., recently agreed to a \$350-million settlement. Westinghouse says it should not have to honor its contracts because an international cartel has pushed up the price of uranium seven-fold.

**EPA bauls about Golden Fleece award—**

The Environmental Protection Agency (EPA) has received Sen. William Proxmire's (D-Wis.) Golden Fleece award for a \$68,000 study on how to prevent agricultural runoff into streams from cow manure. EPA contends that manure is a significant cause of nonpoint pollution. The study was intended to determine the best methods for winter storage of manure.

November 2, 1978 Vol. 20/No. 18 Number of copies printed this week: 109,379

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Back issues of Engineering News-Record are generally available for previous six months. Semiannual indexes will be sent on request. Engineering News-Record is also indexed in the Applied Science & Technology Business Periodicals Index and the Engineering Index.

## South Korea Has Become Major Builder In Mideast by Use of Skilled Manpower

By LOBA MATHYWE  
Special to THE WALL STREET JOURNAL

SEOUL—South Korea, a country once considered that it was known as the "Hermit Kingdom," has moved aggressively into the Middle East and established itself as the major builder for the region's newly rich monarchs and sheiks.

Capitalizing on the desire of Middle East nations for overnight modernization, South Korean construction companies this year already have secured building contracts valued at the equivalent of \$2.5 billion, often beating out U.S. concerns for the jobs.

The total could approach \$1 billion by year-end when, according to Deputy Prime Minister Nam Duck Won, about 20,000 South Koreans will be employed in the Middle East, building an industrial harbor and a naval base in Saudi Arabia, a shipyard in Bahrain, public housing in Iran and several dams and other projects throughout the area.

South Korean construction companies are at work in 30 other countries around the world, too, but they are concentrating on Saudi Arabia and other Persian Gulf states. The reasons aren't hard to figure out.

"No one else in the world has as much money to spend on industrialization as the Gulf states," says one South Korean construction executive. "And no one else is burdened with such a lazy-labor force," he adds. "If those countries had to depend on their own workers, they'd never get anything done."

South Korea has taken advantage of the opening Middle East opportunities by exploiting the one natural resource it has in abundance, skilled manpower. Its growing labor exports have played a major role in the country's recovery from the shock of increased oil prices in 1973-1974, which hit South Korea hard. The construction boom has helped South Korea replenish its badly depleted foreign reserves, finance its own ambitious internal development and pay its ever-increasing oil bills.

The construction companies that landed the first few Middle East contracts tried to cut costs by relying completely on local labor. But they quickly discovered, the companies say, that the locals were hard to train and often didn't put in a full day's work. Currently, the 20 South Korean companies doing business in the Middle East import all their workers from Korea, even though it means erecting housing compounds for them and keeping them supplied with hard-to-get items such as kimchi, a

very pickled cabbage that is a staple of the South Korean diet.

"Our workers are our best selling point," boasts Park Moon Young, director for overseas cooperation in the ministry of construction. "They're tough, they work hard and they never complain." Adds another construction ministry official: "South Koreans work as hard as the Americans used to."

That isn't surprising, because South Korean companies learned U.S. construction techniques 20 years ago when, with U.S. aid, they were rebuilding their country after the devastation of the Korean war.

The host countries of the Middle East are equally enthusiastic about South Korean labor. "They're the best workers we've ever had here," says Youssuf A. Shirawi, Bahrain's minister of development and industry. "They know how to do a job and they're doing it."

In fact, South Korean diligence is almost legendary throughout the Mideast. An Iranian official once reported, in disbelief, that South Koreans hired to unplug the busy port at Khortamshur arrived at the job site at 11 a.m. and were at work by midafternoon.

Shortly before his death, King Faisal also became a devotee of Korean labor. The king was returning late at night to Jidda and saw a crew from the Samwhan Construction Co. finishing a road-beautification project under floodlights. He suggested that the next contract, too, go to South Koreans, and it did.

Ki Y. Kim, an official at the Korean Foundation for Middle East Studies, attributes South Korea's success in the Arab world to the "complementarity of resources between our country and the Middle East. To be frank, all they have is an investment fund from their oil sales. We're resource poor, but we do have the skilled manpower and the technology they lack. It was a happy coincidence."

Despite Mr. Kim's diffidence, the South Korean penetration of the Middle East market is hardly an accident. It is the result of a well-coordinated nationwide drive, fully supported and generously financed by the government of President Park Chung Hee, to transform South Korea into a major overseas builder.

Under government supervision, 28 South Korean companies have joined Korean Overseas Construction Corp., which stipulates tips on new projects in the Middle East and advice about bidding techniques.

All companies that land overseas contracts become eligible for low-interest loans, a 50% corporate tax exemption and a five-year tax holiday on exported construction materials. And if a construction company runs into problems abroad, such as difficulty in getting its equipment through the Middle East's perpetually congested ports, it can appeal to a special government task force, headed by President Park, that will intervene at high diplomatic levels to find a solution.

The government also has turned several military bases into training centers for construction workers. It has even done much of the recruiting, offering South Korean soldiers an early discharge if they sign up for the Middle East.

At the management level, orientation chores are handled by the Korean Foundation for Middle East Studies, a think tank set up 11 months ago by President Park, with 13 professional staff members of its own and 15 economists drafted under government orders from Seoul's leading banks.

The South Korean government has ample motives for promoting the construction industry. The country desperately needs the foreign exchange to pay for its development plans and for its whopping oil bill, which soared from \$277 million in 1973 to about \$1.6 billion this year. Because most of the construction contracts are paid in U.S. dollars or other hard currency, even unprofitable contracts—there have been some—can add substantially to the foreign-exchange reserves.